SENATE—*Thursday, October 28, 1993*

(Legislative day of Wednesday, October 13, 1993)

The Senate met at 9 a.m., on the expiration of recess, and was called to order by the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Let us have a moment of silence, remembering the Vice President's mother; Senator RIEGLE's 11-month-old grandson; Mrs. Koutsoumpas, who works at the doors; and Shirley Herath, who works in the reception room. All of them need a prayer for healing.

(Moment of silence.)

Our help is in the name of the Lord, who made heaven and earth.—Psalm 124:8.

Eternal God, this truth we desperately need to learn. Forgive us for our indifference to Your availability at any time, in any circumstance. You know us in the totality of our lives, in microscopic detail—past, present, and future. We have no secrets from You. Nothing is hidden from You. You know our thoughts before we think them, our words before we say them, our actions before we take them. It is delusion to believe we do not need You.

Sovereign Lord, help us to see that we are most independent as persons when we live in dependence on Thee. Give us grace to submit to You, to commit to You, to allow You to govern our lives, that we may walk in the wisdom and the strength of the Lord.

In the name of Him who is the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 28, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. DORGAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The time until 9:30 a.m. shall be under the control of the Senator from Missouri [Mr. BOND] or his designee.

Mr. BOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

HEALTH CARE

Mr. BOND. I thank the Chair, and I thank especially the majority leader, Senator MITCHELL, and Senator DOLE for permitting us to spend this time to discuss the vitally important issue of health care which is before this body, but is also very much on the minds of all of the people of America today.

To the extent required, I yield myself such time as required.

What we hope to do today, Mr. President, is to carry on and begin, in a full-blown fashion, the discussion begun yesterday by President Clinton and the First Lady, Mrs. Clinton, who has devoted so much time to the issue of health care.

President Clinton, as I understood it, yesterday said there were four main principles which he felt were essential. No. 1, assuring universal health care to every American; giving every American the security to know that health care cannot be taken away; changing a system of a blizzard of paperwork to electronic data filing, so that we may emphasize efficiencies in health care, as well as get better information on health care in terms of what works and what does not work. Finally, he laid the challenge before us to complete all of this by the end of this current legislative session, concluding next fall.

Mr. President, there are quite a few of us in this body, particularly on our side of the aisle, who would like to see all of those objectives accomplished.

We will be hearing today from a number of Members on our side, and then, from 9:30 to 10, from Members on the other side, who have worked long and hard on this health care issue.

I can tell you that it is not a simple one. We have spent, in a health task force established by the Republican leader, some 3 years working on health care and we have found it to be extremely complex. There are many, many different questions that need to be resolved and, frankly, there are no simple, single answers that are going to solve all problems.

We also are working on a bipartisan basis with Members on the other side of the aisle in this body and Members from both sides of the aisle in the House of Representatives, because we think that this measure is so important to the Nation's health and well-being, as well as to the individual health of our citizens, our constituents, the people of America, that we must carry out health care reform on a bipartisan basis.

Having said that, let me outline today to begin some of the principles that have been developed through the task force that are in the plan designated often as the Dole-Chafee-Bond plan or, more likely, the Dole-Chafee plan.

In any event, we realize that, even though we put a great deal of work into it, we still need to hear comments and views from people who are affected by health care, who have had problems with this system and who are involved in the system.

But let me outline for you today some of the basic principles that we think are needed in health care reform.

To set the stage, America has the finest health care system in the world today. Every day thousands of people all across the world vote with their feet—they come to America for health care. If you are sick, really sick, you want to come to the United States, because we not only have the finest technology, we have the finest health care providers—physicians, nurses, specialists, and hospital facilities—that can take care of the most pressing problems that any individual could face.

Having said that, however, we all recognize that there are problems with the system. There are problems that must be fixed.

Now, I think the first rule of health care is, first, do no harm. We could translate that into language that we use in our everyday work around here to say, If it ain't broke, don't fix it.

We do have a fine health care system. We need to focus on changing the things that are wrong, but we should not mess up the things that are good, the high quality health care that we receive.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The problems we face are several. There are some 37 million uninsured. The figure fluctuates and the composition of those uninsured change as people go into and out of the workplace, pick up health insurance, drop health insurance, get health insurance, or health coverage again.

These people who are not covered, very often they are healthy young people who think they do not need health care. But if they are struck by a bus or have a sudden illness and wind up with very expensive care or very expensive needs, they will probably get that care.

But too often they get that care too late in their illness or in their injury. They do not get good preventive care. As a result, they wind up sicker and they require much more expensive health care. And if they do not have the funds to pay for it, then those costs are shifted to private payers, and those of us who pay our health insurance premiums regularly have to pay additionally for the uncompensated care.

Now I have to be frank about it. The Federal Government has been one of the most guilty parties in this cost shifting. We have made savings or claimed savings in Medicare, particularly, and in Medicaid by simply ratcheting down the amount of money that we pay for health coverage for those who are covered under Federal health care plans.

I read an estimate recently that the cost of that health care shifted onto the private sector about $15 billion a year. We need to get everybody covered. We need to have everybody in the system so they get the proper care at the proper time which saves them in terms of human suffering and human capacity but also which avoids cost shifting.

Second, we have a paperwork blizzard. Most of us, as consumers, have to fill out very complicated forms every time we go to a doctor or go to a hospital. If your family is like mine, we usually make errors in the first submission. We send it in and get it back and have to fill it out again. The health care payers have to process all this paperwork. Estimates of cost range from $50 to $80 to $130 billion a year just shuffling paper. It is a 19th century quill-and-scroll type of processing when we have the means of electronic processing of data, of information, that is the 21st century technology. And we are not using it.

Malpractice litigation, excessive litigation, costs $15 billion a year plus, perhaps, much more in terms of defensive medicine—procedures undertaken by doctors, unnecessary tests just to make sure they can defend themselves if they are sued because of a bad outcome, not because of negligence.

Finally, we have spiraling costs of health care; 14 percent of our gross domestic product or $900 billion is spent this year on health care. The projections are it will go to 20 percent of our gross domestic product.

In addition, I ought to say that insurance practices developing in recent years—cherry picking—have caused many people in my State, and I am sure in every State in the Nation, tremendous problems and hardship. The offer of low-price health insurance premiums to healthy groups and when somebody gets sick they have their insurance canceled or their premiums jacked up—I know at least three cases in my State. A family with insurance coverage, they thought, has had the birth of a child with significant health care problems, birth defects or other substantial problems in the family, and the insurance got canceled because they got sick. The families have gone bankrupt. Each one of us who have listened to people from his or her home State could say the same problem has occurred. We need to deal with this cherry picking and make sure insurance plans or health plans share the risk, spread the risk, not avoid the risk. We commend President Clinton and Mrs. Clinton for beginning the debate on how we reform health care and what we do about it.

Under the plan, the Dole-Chafee plan I mentioned before, we believe we must have universal coverage with individual responsibility for each individual to get insurance, not an employer mandate. We believe there must be administrative electronic data reform, malpractice reform, antitrust reform, reform of the insurance market to stop cherry picking, and using the marketplace to get the best price and the best quality for health care, and to do that through voluntary purchasing co-ops.

We looked at an employer mandate. Some say a lot of people get their health insurance through their employer. Why do we not require everybody to do it?

There are a couple of problems with that.

No. 1, imposing a mandate on employers, particularly small businesses with low-paid workers, requiring them to provide an expensive benefit, will cost jobs. Economists may disagree whether it will cost 600,000 jobs or 3 million jobs. In any event, when we are trying to get people working and we are debating an unemployment bill today, we do not need to cause more unemployment. That is the ultimate catch-22 for a worker who has no health insurance, to say we are going to give that worker health insurance, but it will cost him or her a job.

We believe tax fairness, treating everybody equally, giving them full deductibility up to the cost of a standard benefit plan—but not allowing deductions for the provision of much more expensive plans—can get a lot of people back in. Making sure that you have 100 percent deductibility rather than 25 percent deductibility if you are a farmer, a rancher, or a truck driver, other self-employed people—that can get many people in the system.

We also want to have vouchers for the low-income poor, 100 percent vouchers, for the cost of the standard minimum benefit package for poor people who do not receive Medicaid. For people above 100 percent of poverty, up to 200 to 240 percent, we would phase in, as we make savings in health care, the plans for partial vouchers for those plans.

Impose the responsibility on the individual so we do not cost jobs, so we do not wind up with a jury-rigged system of partial subsidies with limits and caps so confusing that nobody can understand them. We believe that providing employer mandates merely hides the costs and shifts the costs to the private sector, shifting costs that the Federal Government has had or has pretended to assume the responsibility for. We do not think that is an honest approach to health care reform.

We believe with the standards included in the measure that I presented with the Senator from Michigan [Mr. RIEGLE], and a bipartisan group on the House, we can achieve electronic data information systems with standard language and standard requirements and strong requirements for privacy and confidentiality. These measures can allow us to save billfons of dollars in administrative costs and also give us information on what works in health care and what does not. Administrative reform and electronic filing is an important part.

Insurance reform: We want to cut out cherry picking, limit preexisting condition exclusions, and stop the practice of canceling policies if you get sick. We say you have to pay the premiums or you are going to lose the coverage. Otherwise, we would invite people not to pay the premiums and force the plans to provide them coverage when they are cheating the system. We also believe malpractice reform is absolutely essential. And we feel this service can be provided through voluntary purchasing co-ops who have to compete on the basis of service to offer the plans to the small businesses and individuals who need health care coverage.

These are just the outlines of some of the things we want to provide and we believe can be very helpful in assurance of universal coverage in dealing with the problems I have outlined.

I will now yield 5 minutes to my distinguished colleague from Delaware, Senator ROTH.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized for 5 minutes.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 1598 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROTH. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

HEALTH CARE

Mr. BOND. Mr. President, I thank the Senator from Delaware. I wish to reclaim the time to continue the discussion of health care which we began earlier this hour. One of the key elements in health care reform is to realize some of the mistakes we have made in the past. We cannot promise what we cannot pay for. We have had problems in the past, Mr. President, estimating the costs of Government health care programs, which we have missed badly.

In the 1990 budget summit, we told everybody that we were going to achieve a $45 billion savings over 5 years in Medicare and Medicaid. It is only 3 years past that time and there have been some nine different technical readjustments. For people who may be watching, the best way to explain it is that is a Federal way of saying, "Oops, we missed it," but after nine technical readjustments, the cost of Medicare and Medicaid over this 5-year period is not going to be $45 billion less, it is going to be $120 billion more, a $165 billion swing in the costs of the program.

That is one of the reasons that, in the Dole-Chafee plan and the other plans which we have discussed and which have been put forward by people in the mainstream Democratic and Republican efforts, we ought to achieve savings first before we promise benefits. There are some who say, "Let us promise the benefits and then, if they are too generous, we can just take them away."

When, Mr. President, has this body ever shown the willingness to take away a benefit once it is provided? That has been the problem: We cannot say no. Once some program gets started, it keeps going and it is added to the deficit or, alternatively, it might increase taxes.

In any event, our ability to cut back on spending programs once instituted has not been good. We have found out that increased utilization comes about when you expand health care coverage. That is why there was an excellent article in the Washington Post of October 17, 1993. I want to share some excerpts with you from it.

They talk about the Clinton promise of health security, and many economists view a darker reality behind it, saying they are potential fiscal time bombs. They quote distinguished Members of this body, Democratic leaders, who commend President Clinton for trying to make an accurate cost estimate but saying, "I would still bet a dime to a dollar they're wrong."

An economist at Salomon Brothers says:

> Make no mistake about it, President Clinton is proposing an entitlement program and, if its substance survives, it will inevitably expand in budget and regulatory control.

Another Member on the opposite side of the aisle—a very thoughtful Member who has been concerned about curbing costs—said:

> It is hard to make the case that our Government can be entrusted with a new entitlement program when we have let the old ones get so far out of control.

Economists of both liberal and conservative stripe have raised questions that we should take to heart as we move into this process. For example, Henry Aaron, a health economist said:

> I don't know of any good numbers out there for estimating the cost on corporate subsidies.

Former Bush economic adviser Michael Boskin said:

> A lot of seeds are being planted here for programs almost certain to grow exponentially over time. I think the conclusion is that we'll just have to force up taxes in the future.

Barry Bosworth, an economist at the Brookings Institution said:

> This is about the most complicated piece of policy I've ever heard of.

He goes on to estimate the program could just as easily be understated by $300 billion as achieving a savings.

Probably my favorite quote from Mr. Bosworth is:

> I don't think we got a chance in hell of knowing how much we will end up spending on health care 7 years out.

For those reasons, Mr. President, I believe the approach we take in our measure to pay as you save makes far more sense. Let us not embark on a very gold-plated, expensive program, new entitlements, four new entitlements without knowing that we have the costs under control and that we are able and willing to demonstrate a reasonable ability to control those costs.

Mr. President, I believe the hour of 9:30 is approaching. At that time, the time is supposed to be under the control of the other side of the aisle. I will yield the floor. I note my colleague from Utah is prepared to speak, and in the absence of another speaker, I might suggest he ask unanimous consent to proceed.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. BENNETT. I ask unanimous consent that I be allowed to speak for 7 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Utah is recognized for 7 minutes.

Mr. BENNETT. I thank the Chair.

We are embarking, Mr. President, on a journey that has historic consequences as we address the issue of health care.

The comments made by the Senator from Missouri are appropriate in that they point out there are many pitfalls and difficulties ahead of us in this journey and we must proceed very carefully.

I do not rise to bash the President or Mrs. Clinton. Quite to the contrary. I think they have made a tremendous contribution to this debate. I have been impressed with Mrs. Clinton's ability to get her arms around the scope of this problem. My one concern is that as she does so, she may have a little more confidence in her ability to solve the problem than I think might be warranted under the circumstances.

There is a little bit of history that will help us. We have two medical programs already on the books, Medicare and Medicaid. They came in that order. Both of them were accompanied with forecasts of certain levels of expenditure. Both of them have so exceeded those forecasts that it is almost laughable to go back and look at what was told the Congress and what has happened in the Congress.

In each case, there was no bad faith. There was no attempt to deceive. There were no smoke and mirrors. There was the very best of faith and the best of efforts. But in each case reality caught up with the forecasts and left us in a circumstance that is now straining to break the budget.

Let us make no mistake; it is the entitlement programs that are breaking the budget and causing the budget deficit, and we are on the threshold of creating a new entitlement—indeed, the largest new entitlement in the history of the country.

This is what disturbs me as we go about this.

Secretary Shalala has been quoted in the popular press that in her testimony before the House she said in effect it does not really matter what the details of the plan are; the important thing is to get a plan in place, and then we can fix it later.

I would introduce Secretary Shalala to a previous Secretary of Health, Education, and Welfare, Mr. Joe Califano. Some people have referred to him as the father of Medicare and Medicaid, because he was on Lyndon Johnson's staff when Medicare was created and he was Secretary of HEW when Medicaid was created. He made the point that when Lyndon Johnson realized Medicare costs were going out of control and the program needed to be fixed, they could not fix it. They came to the Congress 2 years later. Things were locked in concrete at that point. People were satisfied with the entitlement that had been created and politically it was virtually impossible to fix it.

So the first message I hope we would adopt here as we start down this road is that it is more important to get it right than to get it now. I hope Mrs. Clinton and those who are embracing her program will recognize the past history which tells us the validity of that comment and would listen to Mr.

Califano, who says if you do not do it right the first time, you cannot change it, rather than adopt the attitude which Mrs. Shalala has adopted, which is, as I say, it does not really matter the details of the plan, just get one in place and we can fix it later. I consider that a very dangerous direction to go.

Second, I think we should understand we are talking about reengineering one-seventh of the total economy. We are talking about the greatest social reengineering enterprise in which this country has ever engaged. Not only should we do it right, but we should understand that a reengineering of this kind should not take place without a large and growing national consensus behind the way it is done. This is something that should not be done the way the budget was done, with 50 votes plus the Vice President breaking the tie. This is something we should have a large national consensus behind.

I salute Mrs. Clinton for reaching out to Republicans and others outside of her tight little group which put the health care plan together in the first place, to try to achieve that consensus. But as we proceed, perhaps we could understand the importance of building that consensus by slowing down a little and realizing a consensus can be gathered for a number of ideas that can be held together as we move to the more difficult ideas.

Let me give you an example the President himself has referred to, as he stood on the White House lawn and talked about the ancient rivals of Yitzhak Rabin and Yasser Arafat getting together and shaking hands, saying if these two can get together and solve these problems, surely the Republicans and Democrats in Congress can get together to solve the health care problem.

That is true, but Yitzhak Rabin and Yasser Arafat have not gotten together to solve their problems. The details of their agreement are that they have gotten together to agree to agree. They have created the framework of negotiation. They have not tried to tackle all of their problems at once because they realize how difficult those problems are. So they are putting the more difficult problems off as they work through the areas where they can agree.

Following up on the President's analogy, that is what we ought to do on health care, start with the areas where we can get 80, 90 votes in the Senate and say we will agree not to tackle the more contentious ones until we have built a consensus brick by brick, so that the more contentious issues of employer mandates and taxes can come after we have created a basis of agreement on the less contentious issues of, say, antitrust reform and common insurance practices.

Mr. President, I ask unanimous consent that I be allowed to continue for another 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENNETT. I thank the Chair.

I am talking, I would hope, about a sense of cooperation and consensus in the Senate and the House to solve this problem in such a way that we do not look back on it with the same sense some of us now look back on the creation of Medicare and Medicaid and say what kind of a mess did we make, but that we build the bricks very carefully and together, in such fashion that when it is over we do not say, gee, President Clinton had his way with a narrow victory or, gee, the Republicans succeeded in rolling President Clinton on their plan and picked up enough Democratic support to create a 51-vote majority to get their plan; that we look back on this in future years and say the Congress and the executive branch, working together carefully and perhaps slowly but very accurately over time built a health care reform system that enjoyed the support of 75, 80 Senators of both parties and all political persuasions.

Are there deal breakers as we go about this process? For me there are. I do not want to see health alliances that are monopolies that have regulatory powers. But I am willing to put that off while we deal with some of the other issues on which I think we can reach agreement.

Mr. President, I offer congratulations to the Clintons for their initiative in bringing this issue to us, and I hope they will, in the spirit that has marked the conversations up to this point, be willing to back away from a sense of great haste and urgency and come to the notion with which I began my comments, that it is far more important for us to do it right than it is to do it now.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Senator from Utah has suggested the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DODD. Mr. President, as on behalf of the majority leader, I ask unanimous consent that relative to the cloture vote at 1 p.m. today the mandatory live quorum be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, may I inquire as to whether or not the Senate is now in morning business.

The ACTING PRESIDENT pro tempore. The Senator is correct.

THE HEALTH SECURITY ACT

Mr. DODD. Mr. President, I would like to take a couple of minutes, if I could, to express my immediate thoughts on the historic announcement that occurred yesterday. The President of the United States and the First Lady presented to a significant number of Members of the House and Senate their national health reform effort, the Health Security Act, as it is called. I am very proud that I will be a cosponsor of the proposal.

I would like to take just a couple of minutes this morning to express my thoughts as we begin what I think will be one of the most historic debates in the 20th century. As we close out this century, we will address something that has plagued and defied previous Congresses and administrations going back to the earlier part of this century. We are on the brink, in this Congress, of achieving something that others have wrestled with for decades and have been unable to achieve.

I begin the process by believing we will achieve national health care reform. We will have a Health Security Act, after long-awaited efforts that will give people security about their health care and relieve their fear that health care will bankrupt their families. I believe this will become a reality before this Congress adjourns next year.

Mr. President, the bill will be as I said a moment ago one of the most important pieces of legislation considered by Congress in the 20th century. That is my firm view. It will appear alongside the Social Security legislation of the 1930's and the civil rights legislation of the 1960's on the pages of future American history books. It will appear alongside the great vehicles of social reform not only because of its monumental impact but also because of the principles of security and justice on which it is based. Like the Social Security Act, the Health Security Act will provide a new and desperately needed guarantee for Americans. Just as Americans now do not have to fear old age without a pension, they will no longer have to fear illness without treatment.

Like our civil rights laws, the Health Security Act will make our society more just and more equitable. Just as Americans no longer have to fear State sanctioned discrimination based on race, they will no longer have to fear health care discrimination based on health status or ability to pay.

We have arrived, Mr. President, at one of those unique junctures in American history when there is nearly universal agreement on the need for change. Not everyone, obviously, agrees on the form this change should

take. There is a great deal of disagreement on this point. But I have yet to meet anyone in the halls of Congress or outside of this Chamber who feels that the status quo is preferable to real reform, and that we can continue down the road that we are now on, without change.

Republicans and Democrats, doctors and patients, small businesses and large corporations, consumers and insurance companies, all agree that reform is imperative. I hope we will seize this opportunity, Mr. President, to form a broad-based consensus about the shape of reform and give the American people what they deserve and have been asking for for decades: A health care system that works for everyone in this country, but does not bankrupt the Nation as well.

While the introduction of this bill has great significance for all of us, I know it has special significance for our colleague Senator KENNEDY of Massachusetts, who has been toiling away for health care reform for the last quarter of a century as a Member of this body. I want to commend, if I can, the distinguished chairman of the Labor and Human Resources Committee for his work in this area. He has been a champion of it for years.

The case for reform is clear and compelling. Our health care system is in desperate need of repair; it must be fixed. The system is too expensive, and it leaves far too many people without coverage. I see the President's plan as our best hope, and that is why I have become an original cosponsor of the Health Security Act.

I prefer President Clinton's proposal because it is based on six critical principles, which he articulated in a joint session of Congress a few weeks ago and reiterated again yesterday. Those six principles deserve being repeated over and over again, because they are the principles which Americans have talked about and cared about for such a long period of time.

The first is security; the second is savings; then quality, choice, simplicity, and finally, responsibility. Other plans, Mr. President, while they have merit and good points, fall short on one or another of these most important standards.

I am enthusiastic, Mr. President, about being part of this effort, because of the tone that the administration has set. The President and the First Lady have demonstrated, I think, a sincere willingness to listen to criticism and suggestions and to take them into account. The President has also sought to form a bipartisan coalition to support health care reform. I believe there have been more meetings and more consultations prior to yesterday's introduction than at any other time in my memory on almost any other piece of legislation—certainly any other piece of legislation of this significance. The President and the First Lady know that health care should not be a partisan cause, but an American cause; not an issue that divides us, but one that unites us; not a source of recrimination, but one of reconciliation.

Mr. President it would be naive to suggest that every part of a sweeping effort to reform one-seventh of our economy would be supported unanimously. There are certainly aspects of this health care plan that I would have written differently. I am sure that can be said of almost every single Member in this body. But we cannot allow specific objections to some parts of the plan to derail the entire effort. I am sure that will not occur.

The fact is that introduction of the Health Security Act represents not the end of this process, but rather the very beginning of this process. In the months ahead, we will be working together with those who have introduced other plans, with those who have other ideas, working together to shape this legislation, to make sure that it meets the needs of our constituents, and that it is consistent with the principles established by the President.

During this process, Mr. President, I plan to focus on preventive care and the unique needs of pregnant women and children. We can no longer afford to neglect prenatal care, and we can no longer afford to neglect child immunizations. We can no longer afford to neglect the health of adolescents. I want to work toward a reform plan that provides solid benefits in these areas and contains provisions to make sure the benefits reach those who need them.

Mr. President, I also want to make sure that the reform plan is friendly to small business, which contributes so much to job creation in this country. As the First Lady told me during her appearance before the Labor and Human Resources Committee in September, "It would be difficult to create a health care system more antibusiness than the one we currently have." I hope that the new system we design will achieve the goal of health security for all Americans, without burdening small business.

Some people might be surprised that a Senator from Connecticut, home of some of our Nation's major health insurance companies, is cosponsoring legislation to overhaul the health care system. There is a perception that all insurance companies are adamantly opposed to change and that they are conspiring to undermine the reform process. In fact, a Herblock cartoon in this morning's Washington Post lumps all of these industries together.

I suggest to my colleagues that nothing could be further from the truth. The insurance industry, of which we are very proud in my State, and which employs more than 50,000 people, is not a unified monolith that speaks in one voice. Many insurance companies strongly support reform. There has been much misinformation on these points.

For instance, last week, there was a flurry of media accounts about the Coalition for Health Insurance Choices, a group established largely by the Health Insurance Association of America, to weigh in on the health care debate. You may have seen their ads on television. The existence of this group was pointed out as evidence of a grand conspiracy on the part of all health insurance companies to derail reform.

What was left out of this discussion was the fact that the health insurance association of America does not represent the entire insurance industry. In fact, three of the largest health insurance companies in the United States located in Connecticut—Aetna Life and Casualty, Cigna, and the Travelers—do not belong to this organization and disassociate themselves from their media efforts and their propaganda.

These companies are all committed, I point out, to health care reform. Not only do they support many of the principles outlined by the President, but in a number of instances they have already achieved on a small scale what we hope to achieve nationwide through health care reform—namely, cost reduction and quality control.

Here is an example, Mr. President: Cigna Healthcare's Arizona health plan has developed an innovative way to manage pediatric asthma cases. It has improved diagnosis of the problem, implemented education programs, and provided medical equipment for children to use in their own homes. These steps have already saved $1.3 million and made treatment more comfortable for many children.

Cigna also developed a new biopsy procedure to detect breast cancer. This reliable procedure saves patients the inconvenience and discomfort of major surgery, and it costs only one-third the costs of traditional surgical biopsies.

Mr. President, we simply cannot allow this opportunity to reform the Nation's health care system to slip away. We must act now to provide the American people with the health care system they need and the health care system that they deserve. I commend the President and the First Lady for the efforts they have already undertaken in this regard. We would not be here today, we would not be at the point in our history, were it not for their efforts. As I mentioned, there are many fine ideas that have been presented by other Members of this body and other members of the other Chamber. At the end of the day, I suspect we are going to come together on a health care proposal that reflects the best ideas of all of these plans. But when that day arrives, let us not forget that if not for President Clinton and Mrs. Clinton, we would not have arrived at that moment.

In these years, 1993 and 1994, for the first time in decades, we are going to finally debate and have a health care proposal that gives people a sense of security, and a basic benefits package that would be available to all Americans. And on that point, I hope there is no disagreement in this body. A plan that is not comprehensive and does not cover all Americans does not deserve to be called health care reform. On that point, I think all of us ought to come together. I commend my colleagues for their efforts and look forward to working with them.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Massachusetts. But let the Chair advise the Senator there is 1 minute remaining in this 30-minute block scheduled for the majority side. The Chair will further advise Senators that during this 30-minute block the Senator from Missouri asked unanimous consent that the Senator from Utah, Mr. BENNETT, be allowed to speak. He consumed 10 minutes of his time because no one on the majority side was present.

Mr. KENNEDY. Obviously, I want to accommodate. I was on the floor when Senator BENNETT was making his comments. I would hope we might be able to be extended time—I know Senator BOXER and I want to speak briefly—and to ask whether we could use that 10 minutes and then go back to the earlier order.

Mr. BOND. Mr. President, this is a very important subject. Unfortunately, we have several speakers on our side who have markups and had planned to be here.

Senator CHAFEE agreed that we should extend 2 minutes of our time to the Senator from West Virginia. Then I would like to yield to him. I would also then like to yield to Senator CHAFEE so that he may go on to a markup.

I would note to the Chair that I did not yield to the Senator from Utah, a mere technicality. We want to have everybody heard. We have morning business until 10 o'clock.

Mr. CHAFEE. Mr. President, as far as I am concerned, if it is 10 minutes, fair enough, but I would hope they limit it to 10 minutes because each of us are waiting to get to committees. If that would be satisfactory, that is fine with me if they want to go.

The ACTING PRESIDENT pro tempore. That would have to be done by unanimous consent.

Mr. KENNEDY. Mr. President, if the Senator from Missouri has reservations about that then I would not offer it. But otherwise I ask unanimous consent we be able to have 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BOND. Mr. President, I would concur in that and am happy to agree to the unanimous-consent request that there be 10 additional minutes on that side to be controlled by Senator KENNEDY.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Republican time be extended 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. I thank the Chair.

I yield to the Senator from California briefly.

Mrs. BOXER. I thank my friend from Massachusetts and I thank my Republican colleagues for being so accommodating.

Mr. President, I planned to be here to speak about my support for the proposal by the President in terms of his health care plan, which is something this country is crying out for. But rather than do that, because of the time limitation the Senator from Massachusetts [Mr. KENNEDY] gave me permission to speak for about 1 minute or 2 to fill the Senate in on what is happening in California with our devastating fires.

FIRES IN CALIFORNIA

Mrs. BOXER. Mr. President, the devastation continues. The Santa Ana winds continue, fortunately at a little lesser speed than they were yesterday, but predictions are they will pick up tomorrow.

We have this window when our brave firefighting men and women can get out there and get some of these fires under control. We had as many as 14 fires. My understanding is that four have been put out. There are several counties, including Ventura, Los Angeles, and others, that have been declared emergencies, and the Governor is acting to ask the President for help.

Our President will be addressing the Nation at a press conference. I believe he is going to have a statement about the fires. I just wanted to report to the Senate—because I see here my colleagues who experienced these problems in their own States—that the head of FEMA, the new head of FEMA, James Witt has been just extraordinary. Usually I have had the experience of having to beg for information, having to beg to be informed. He was on the phone to both Senator FEINSTEIN and me. He said to the people of California, do not wait until it is too late. We want to help. We want to swing people into action, the Forest Service, the Department of Defense. We want to help.

So I just again thank my colleagues for this moment. Senator FEINSTEIN and I are going to act as a team. One of us is going to go to California. One of us will stay here to inform the Senate of what is happening and do the work that needs to be done.

I say to the people of California: Our hearts are with you. We are thousands of miles away but we see the devastation you are going through.

We are very grateful that there are no deaths, Mr. President, no deaths at all, although we have had at least 30,000 people who had to flee their homes, and estimates range from 50,000 to 80,000 acres burning.

So we will pray and we will swing into action, and we will be reporting to the Senate as the day goes on.

HEALTH CARE REFORM

Mrs. BOXER. Mr. President, I am proud to rise today as an original cosponsor of the administration's health care reform bill. Yesterday's unveiling of the Health Security Act was a historic moment. After years of political neglect and denial, years of watching the number of uninsured Americans skyrocket, and years of seeing our people pay more and get less, we finally have a comprehensive plan to reform our health care system.

The Health Security Act lives up to its title. This is a bill to give all Americans security and choice, improve the quality of care, reduce costs and paperwork and make everyone responsible for health care. This bill is good for America and good for California.

We need to look at the human faces behind this issue. We need to think about the millions of Americans who work hard, play by the rules, and are unable to afford even the most basic care for themselves and their families.

One of those Americans is Donald Greenberg of San Diego, CA. In a recent letter to me, he wrote:

> Something very terrible happened to my family today. Something that made me very angry. My ten year old son Benjamin was refused medical care by a physician because we don't have health insurance. * * * My son doesn't understand why dad, who works full-time at a very respectable company, can't get health insurance, and frankly neither do I.
>
> I had health insurance once, but when the company I was working for went under, I lost my insurance as well as my job. I haven't had insurance since 1990, even though I have [been] employed all along. * * * When I moved to San Diego in 1980 health insurance was $7 every two weeks, no deductible. Now they want $400 per month.

In the months ahead, we know it's going to be tough—change and leadership are never easy. We know we are going to be asked to make some difficult decisions. But, we need to look at this program in its entirety, examine its underlying objectives and then work to make them a reality.

1. SECURITY

The President's bill provides universal coverage and gives all Americans the health care security that they deserve. It guarantees all Americans insurance coverage for a comprehensive set of benefits whether they become

sick, lose or change their jobs, or have a preexisting medical condition.

We know the statistics. In this, the greatest Nation in the world, we have the unfortunate distinction of being one of only two Western industrial countries who do not guarantee affordable health care for their citizens. The other nation? South Africa.

In this, the greatest Nation in the world, we have a situation where 37 million people live without health insurance. More than 85 percent of them are working people with families. Almost 6 million of them live in my home State of California.

In this, the greatest Nation in the world, we have a situation where an American loses his or her health insurance every 30 seconds, where 25 percent of our work force is afraid to change jobs because they fear they will lose their health insurance.

In this the greatest Nation in the world, we need to do better. The American people understand this and they elected us to get the job done. The Health Security Act guarantees all Americans insurance coverage for a comprehensive set of benefits.

None of the Republican alternative plans introduced in the Senate provide this type of security.

In fact, one plan hardly changes our current system. Senator GRAMM's bill doesn't include protections against insurance companies raising their rates or dropping individuals. And, Senator GRAMM's bill officially sanctions the current practice of raising rates for people with preexisting medical conditions by forcing them to pay 150 percent of the average premium.

2. SAVINGS

The President's plan will help businesses, consumers and our Nation by controlling our skyrocketing health care costs. Right now, we spend more money on health care than any other industrialized Nation that provides access to their citizens.

Consumers and businesses in California have been hit hard by out-of-control costs and understand the importance of these controls. In 1992, an average family living in Los Angeles, without employer provided health insurance, paid $7,296 for a health insurance plan.

During the last decade, a typical California family's health payments rose 6 percent faster than its wages. For California businesses, the current trends are equally poor. Between 1980 and 1991, spending by California businesses on health insurance increased 294 percent and reached $35 billion.

Right now, the rate of growth for our health care spending exceeds that of the overall economy. Right now, health care spending represents one in every seven dollars spent in our economy.

Unless we dramatically alter this course, within 7 years, health care costs will consume 20 percent of Federal dollars and more than 25 percent of State and local budgets. Our deficit will continue to soar, businesses will be hurt, and every American's pocketbook will suffer.

The Health Security Act establishes an overarching health care budget for the Nation, reforms workers compensation, caps the growth in health care premiums, and limits out-of-pocket costs for Americans.

It even eliminates copayments and deductibles for a critical set of preventive services, from prenatal care to immunizations and from pap smears to mammograms.

The emphasis on primary, preventive care is crucial. When our health care system fails to provide adequate primary care, we waste precious dollars treating preventable illnesses like measles and tuberculosis, which we thought we had conquered long ago. Alternative plans often fail to recognize this important point.

For example, with the medical savings account established by Senator GRAMM's bill, every time you see the doctor you pay for it out of your own savings. This would act as an incentive to avoid preventive care and to wait to seek medical attention until you are very sick, when care is more expensive.

3. SIMPLICITY

True savings are only possible when we cut the red-tape and reduce the administrative costs of health care. Every one of our health care dollars is precious.

But right now, 25 cents of every dollar goes to pay for bureaucracy and paperwork. According to Consumer Reports, Americans pay $163 billion a year for health care administrative costs. This means that we spend $447 million a day and $19 million an hour to feed an increasingly hungry bureaucracy. For our small businesses, the backbone of our economy, administrative costs consume 40 cents of every health care dollar.

Look around at the diseases claiming the lives of our people, young and old: AIDS, breast cancer, heart disease, and Alzheimers. With these tremendous challenges before us, our Nation, our businesses and our consumers cannot afford to waste one extra cent on bureaucratic redtape.

The President's bill reduces administrative costs and helps us put health care dollars where they belong.

It establishes a single insurance claim form, encourages automation, and reduces the paperwork that too often consumes our doctors and nurses and keeps them from doing the jobs they were trained to do.

4. CHOICE

The Clinton plan empowers our consumers by increasing choices. Health care is something that affects each and every one of us; it is something that everyone has a stake in—no matter where you live or how you live.

When it comes to health care, Americans know what they want. The President's bill recognizes this. It realizes that consumers make their most cost-effective choices when they understand their options and have enough knowledge to choose between them. This bill will give everyone a choice of health care plans and the option to choose their own doctor. And, everyone will have information comparing the health care plans and consumer satisfaction with them so that we can make informed choices.

5. QUALITY

The President understands the meaning of quality health care and his bill includes an expansive benefits package to guarantee it. What does quality care mean under the Clinton plan? It means that everyone will receive coverage for hospice, for home care, and for prescription drugs in the benefits package. It means that a new long-term care block grant program will provide expanded home and community-based services to all Americans, regardless of age. It means the expansion of public health and prevention programs and investments in health care training and education.

One alternative plan actually encourage bare bones coverage. Senator GRAMM's bill encourages individuals to purchase health insurance policies that cover only catastrophic health care costs. No coverage for preventive care, long-term care or prescription drugs.

Under the Clinton bill, quality care means that every retired person between the ages of 55 and 65 will receive coverage through the health alliances.

It means protection for those workers whose benefits have been cut back or terminated, and it means relief for our businesses who need to scramble to afford even the most basic retirement health plan. This is good news for California. This provision will offer a helping hand to California workers, like those at McDonnell Douglas, who have watched their health benefits altered or terminated this year.

Finally, if it is to mean anything at all, quality means comprehensive care for this Nation's women.

The President understands this and the benefits package in his plan includes the full range of family-planning and pregnancy-related services—including abortion.

When we talk about including abortion in our health care package, we need to be clear. We are not talking about providing women with a new benefit. We are not talking about providing them with additional coverage. We are talking about offering women the same coverage and benefits that they already receive from most private health insurers.

I am so proud to serve under a President who understands the meaning of reform, the meaning of fairness, and the meaning of quality care. This is a

President who understands that private health care decisions should be made in the doctor's office, not in the Halls of Congress. Because, when we infuse politics into our medical decisions, it is the health of the people that suffers.

I plan to fight with the President to make sure that Congress approves a health care plan that guarantees women the full range of reproductive services, a plan that doesn't leave half our population out in the cold.

6. RESPONSIBILITY

The President's bill asks everyone to contribute to and take responsibility for the choices and costs associated with health care. We need to take responsibility for our own health by using preventive health services, and for the health of our Nation by working to decrease violence.

The President asks everyone to contribute to health care—asks employers to pay 80 percent and employees to contribute 20 percent. But, it also establishes subsidies for small businesses and low-income individuals to make sure that these costs are not burdensome.

This plan is about all of us—from the uninsured single mother to the CEO of a large corporation. It's about coming together to make life better for all of our people.

As I said at the start, it is not going to be easy. All of us have concerns about the President's bill. I'm concerned about California continuing to get stuck with the bill for illegal immigrant emergency care. Although the administration has proposed a pool of $1 billion in fiscal year 1995 to pay for these services, the State of California estimates that such care currently costs the State's Medicaid program over $750 million in this fiscal year alone.

I am worried that new drug policies could curtail private investment for innovative research and development and hurt California's biotechnology industry, an industry that, over the past four years, has created 10 percent of the new jobs in California.

I want to examine how the cuts in Medicare and Medicaid will be administered to make sure that reform doesn't come at the price of decreasing vital services to our poor and elderly.

Finally, I have a few concerns about the treatment of women's health issues in the comprehensive benefits package. In the package, pap smears and pelvic exams are offered every 3 years and mammograms, beginning at age 50, are offered every 2 years. This is less treatment than the American Cancer Society recommends. In general, they suggest a pap smear and pelvic exam once a year and an annual mammogram for women beginning at age 40. I want to work with my colleagues to ensure that our coverage for women's health meets the highest medical standards.

So, yes, let's raise our concerns. But, let's raise them in the spirit of partnership, not of obstruction. Let us support the underlying themes of this critical plan and work with the President to revolutionize the way we think about and receive health care.

As the debate moves forward, we also need to remember the human faces behind this issue. Like many of my colleagues, I have received many letters from constituents on the need for health care reform, and I would like to conclude my remarks by sharing two more stories with you.

Flora Moshinsky of Covina, CA, wrote to me of her children, a son and daughter who are "not covered by their employer's insurance, because they don't have employers, and are trying to get by on whatever insurance is available to them."

Her son, at the age of 29, "returned home to further his education as he found that he was not making enough money at his job to live. He was one of those people the President referred to as one paycheck away from disaster."

When his kidneys failed, and he became sick, his health insurance would not pay for his treatment. Today, he is alive and well because her son finally qualified for Medicare.

And finally there is James Snyder of Carmichael, CA, who writes lovingly about his wife Janice who has breast cancer.

> In all, we consulted with six doctors regarding the appropriate treatment for Janice's condition.
>
> They were unanimous in recommending several standard chemotherapy sessions, followed by a very high dose chemotherapy treatment coupled with an autologous bone marrow transplant.
>
> My wife and I thought we had complete health care coverage. Then, the hospital advised us that—our health insurance—has issued a verbal denial for her treatment. They will not cover the bone marrow transplant.

These are the faces behind health care reform and the reason why we need to pass the Health Security Act.

I again thank so much my good friend from Massachusetts.

Mr. KENNEDY. I thank the Senator very much.

How much time remains?

The ACTING PRESIDENT pro tempore. The Senator has approximately 6 minutes remaining.

Mr. KENNEDY. Mr. President, I yield myself 2½ minutes. Then I yield the Senator from West Virginia 3 minutes.

Mr. CHAFEE. Mr. President, if the Senator wants to go until 10:15, that is fine by me.

Mr. KENNEDY. That is fine. I thank my friend and colleague. We rarely get people over to the floor to talk about health care, so it is welcome that we have a number of our colleagues who want to address it.

Mr. President, the President has proposed a bold plan to guarantee health security for every American and to curb the soaring cost of health care.

The legislation the President submitted yesterday is a plan that will work. It will guarantee every American family the coverage it needs at a price it can afford and put in place a comprehensive system to control cost. The cost control program is based on using market forces to achieve real competition in health care.

In addition, the budget and the firm premium controls will assure that savings are achieved if market forces do not work as quickly and effectively as we hope.

The principle we are following is called managed competition, and one of the major debates in Congress will be over the degree of management required.

The President's plan will also cut through the miles of red-tape which is strangling the current health system and frustrating patients and health providers.

The President's plan is preserving and expanding choices for the American family. Today people fortunate enough to have coverage are often unable to choose the coverage they prefer. Instead, their employer chooses it for them. The President's plan puts the choice where it belongs—with individuals and their families.

The President's plan preserves and improves the quality of care. For the first time, the American people will have access to report cards on doctors, hospitals and health plans. These reports will help them choose the plans that provide the best care and put pressure on all providers to improve their services.

Finally, the President's plan is based on the principle of shared responsibility. Everyone, workers and employers, the unemployed and self-employed, will contribute to the cost of care, as most Americans and most businesses do today. But, premium discounts will be granted to assure that care is affordable for low-income citizens and vulnerable small businesses.

The President's plan contains the greatest advantage for senior citizens. They have had guaranteed health insurance coverage since the passage of Medicare in 1965. But Medicare has serious gaps today—gaps that have become a greater and greater problem as medical costs have risen.

The President's plan provides desperately needed prescription drug coverage under Medicare.

The interesting fact is, in the debate in 1965 many of the doctors and the dentists resisted the coverage because they did not want to be included in the program. And now, most of the groups that excluded themselves want to be part of the system.

Any plan as broad and comprehensive as a Health Security Act will require adjustment and compromise as it moves through the legislative process. But the President's plan provides an

excellent start and solid structure for reform as Congress now begins to address the legislation. I look forward to working with my colleagues to deal with it as effectively and expeditiously as possible.

I thank the Senator from Connecticut for his kind references to me. And I want to mention his special knowledge of, awareness, and energy about children as chairman of the Children Caucus. Senator DODD is one who had been a leader on children's issues in our Labor and Human Resources Committee. His contribution to this debate on issues affecting children who are, as we know, the ones who are left out and left behind, will be a very, very powerful incentive for support of this legislation.

I yield the remaining time to my friend, the Senator from West Virginia.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I will be very brief this morning. If anything is clear about the reform debate, it is that we can count on plenty of time to talk through all the issues over the next several months.

I come to the Senate floor to simply congratulate President Clinton and the First Lady.

Speaking more as an American, and not just as a Senator, I felt enormous gratitude yesterday as they delivered the President's Health Security Plan to the Congress yesterday morning. Finally, after all these years of handwringing, the American people have a President with the commitment and the capacity to lead our way through a solution to the health care crisis.

Mr. President, we have not just been handed a bill—the legislative language that suddenly took on such importance in the recent weeks—we have been handed the ball. The President has submitted a serious detailed, comprehensive plan for achieving health security for all Americans.

It is up to us to get it to the finish line.

Yesterday, the President spoke for the American people when he reminded us of the job ahead. He promised an open mind and an open door when it comes to working with us through the specifics. But he was the messenger of the people when he declared what cannot be compromised. No matter what we must produce a final product that will deliver what Americans have every right to expect—security savings, quality, choice, simplicity, and responsibility.

I have been immersed in the health care debate for years. I have watched colleague after colleague, expert after expert, interest group after interest group struggle over the best way to fix our broken-down health system. The temptation to avoid the tough decisions is almost irresistable. That's why we are still seeing health care bills that pledge the idea of universal coverage, and leave out completely the way to guarantee it. The discomfort with the hard choices involved is natural. And that's why we are still seeing health care plans that don't assign responsibility for a solution, and that will not change the rules that are leaving so many Americans out in the cold.

In his health security plan, the President doesn't punt, or dodge, or hide behind promises that can't be redeemed. And now, it's time for everyone to do their part.

I also want to point out this morning how many people deserve to be thanked for the position we're now in to enact health reform. I think of the people of my State who helped me to make this issue a priority. As I have listened to their burdens of rising health care costs, and their fears of losing coverage just when they need it most, I made the decision to devote myself to hammering out the solution to ease those burdens and those fears.

Americans everywhere have spoken out in the recent elections, and are saying in every way they know how that it's time for us to do something about the health crisis. It is their crisis.

The President and First Lady have drawn on a team of some of the most dedicated public servants—inside and outside the Government that this Nation will ever know.

I will finish here this morning. Again, I congratulate and thank the President and the First Lady, and everyone who helped us get this far.

Everyone in this body now has an opportunity to help chart the course to health security for every American. I hope we will surprise all the pessimists and the pundits. I hope and pray that we'll devote the courage and the conviction that it will take to get the job done.

Mr. President, I would simply note that the Senator from Massachusetts [Mr. KENNEDY], has been at this issue of health care now for 31 years. His efforts and his work diminish the efforts of all the rest of us, not in intensity but simply by comparison.

I also thank our Republican colleagues, the Senator from Missouri, with whom I work on health care issues with children, the Senator from Washington, whom I worked with on tort reform and many other tricky issues, and the Senator from Rhode Island, with whom I work on everything.

Mr. President, my point in coming to this floor this morning is very simple, I simply want to congratulate the President and First Lady.

Speaking frankly, more as an American than as a Senator, I feel enormous gratitude, and I felt it yesterday as strongly, as they delivered the President's health security plan to Congress. Finally, after all these years of handwringing, of talk, the American people have a President with the commitment and the capacity to lead our way to a solution to this vast health care crisis.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from Missouri.

Mr. BOND. Mr. President, I thank my distinguished colleague from West Virginia, as well as my colleagues from Massachusetts and Connecticut. These three distinguished Senators—Senator ROCKEFELLER, Senator KENNEDY, and Senator DODD—all indicated they wish to work in a bipartisan spirit to achieve the goal that we all seek, and that is universal health care with security, with containment of costs. We thank them for their willingness and their expressed intent to work with us.

Now, it is my pleasure to yield 7 minutes to the Member on our side, the Senator from Rhode Island [Mr. CHAFEE], who has been the leader of our task force and a leader not just of the task force but a leader in developing health care proposals and insights into health care that we find absolutely essential.

Mr. CHAFEE. Mr. President, first, I wish to thank the distinguished floor manager here, the junior Senator from Missouri, for the kind comments he made.

Mr. President, I would like now to discuss some of the concerns that I have with the Clinton health care reform package that was presented yesterday.

First, I would like to start off by commending the President and Mrs. Clinton for their efforts in bringing the whole subject of health care reform to the front burner, making it one of the most prominent items for legislative action that this Congress will face. But for their actions, we would not have health care reform at the high visibility point that it is now. Certainly, both Mrs. Clinton and the President deserve a lot of credit for that.

Mr. President, these objectives of reforming health care are goals that I share, as do those 22 Senate Republicans who have joined with me on a plan we call the HEART plan.

Mr. President, as we start on health care reform, I think it is important to remember that we are embarking on one of the most significant legislative undertakings this body has considered. Much of it is uncharted waters we are heading into, with a potential for imposing enormous new costs on the system if we make the wrong choices.

Just consider for a moment the scope of health care reform. It will affect $1 out of every $7 spent in the United States of America. It will affect every citizen, from the youngest—and, indeed, the unborn, as we try to care properly for expectant mothers—right through to our oldest citizens in the Nation; and from our poorest citizens to our richest citizens. The plan will

provide health security for tens of millions of our fellow Americans who never had health insurance or, if they have it, do not have adequate coverage presently. Current estimates indicate some 37 million Americans are at any one time uninsured and another 20 million underinsured.

What we do will affect the way doctors and nurses and other health care professionals practice their profession. It will affect new technologies, new drugs, new procedures. It will have a tremendous impact on Federal, State, and local government spending, as well as the private sector spending and household budgets across our country.

In short, Mr. President, health care reform will be the most significant change in our society in this half of the 20th century.

Bearing this in mind, I think it is terribly important that we proceed with care, indeed, with extraordinary care, and that we recognize our inability to precisely predict the future. We should take some steps and see what happens and then take the next step.

I would like to highlight just three aspects of the Clinton plan I believe would take us down the wrong path and which should be rejected.

I would start off by saying there is much in the Clinton plan that we, the sponsors of the HEART Plan, agree with. There are some 16 points of commonality. But there are some major differences, and I would like to just touch on three of these this morning.

First, the Clinton plan writes a very highly detailed, uniform benefit package into law. That is the first thing—very, very highly detailed.

Second, the Clinton plan expands universal coverage, coverage for everybody in America, at a very rapid pace without knowing the cost that this will entail.

Third, the Clinton plan embarks on new entitlement programs.

An entitlement program is a program in which there is no limitation on the funding. Anybody that is entitled to it gets it, regardless of whether there is money, regardless of the cost of it. The Clinton plan embarks on new entitlement programs without, in my judgment, proper calculation of the potential costs. These are giving new benefits that currently do not exist.

I think all of us would agree that health care quality and technology will change dramatically over just the next 10 years, never mind over the next two decades. Our struggle must be to ensure that we allow health plans to evolve over time and that we do not freeze them into perpetuity by writing overly detailed benefits into statute, as the Clinton plan would do.

To leave the design of the benefits package to the political process—indeed, the Congress would create a package that is way more than the Nation can afford.

Let me just give you a couple of illustrations. Medicare benefits are a complicated mix of statutory language and regulation. But they are very specific. In fact, they are so specific that almost every year since 1984 we have the incongruous situation of a Senator—in this instance, it has been me, and a Representative, Representative PETE STARK, and some others, ending up in a room in this Capitol at 2:45 in the morning to consider highly specific benefit provisions under the Medicare Program.

And, indeed, I clearly remember one time at 2:45 a.m., Congressman PETE STARK and I were arguing over which professional should be reimbursed for reading an EKG. This is ridiculous.

First of all, we do not know much about reading an EKG. And why should we, a Congressman and a Senator, be writing that into law?

Second, the Medicaid Program has been expanded since its inception to include long-term care for the elderly and disabled. That is fine. But the changes were specifically written into law. Unfortunately, these changes were based on what was the state of the art for long-term care 25 years ago, when you had 24-hour-a-day institutional care. But time is proceeding, and the cutting edge of care has changed. It has been discovered that it is more humane and more cost effective to have community-based programs, and to keep individuals out of institutions and in the home setting, if at all possible.

But the Medicaid program does not pay for that. As it is written into law, Medicaid only pays for the care of the individual in an institution, in the most expensive place you can care for an individual, instead of paying something, far less, toward the individual being cared for in his or her home. That is the law, and we do not seem to be able to change it because there are so many vested interests, including the hospitals and the long-term care institutions, there to fight us every step of the way.

By writing very specific benefit features into this bill, the Clintons, I believe, would invite this same problem.

The PRESIDING OFFICER. The Senator has spoken for 7 minutes.

Mr. CHAFEE. I wonder if I might have 3 more minutes?

Mr. BOND. I yield 3 additional minutes to the Senator from Rhode Island.

Mr. CHAFEE. This draft bill—here it is—this draft bill has 58 pages devoted to what is to be in the uniform benefit package. Here it is: Outpatient prescription drugs and biologicals described in section 1122, outpatient rehabilitation services described in section 1123; 58 detailed pages of what is to be in the uniform benefit package.

Mr. President, you know and I know when this bill comes to the floor of the Senate in this form, Senators will be popping up all over the floor making sure that their little group is taken care of that they are concerned about, whether it is chiropractors or podiatrists. If they are not already written into this bill, they will be. And when Congress is through, it will be the most expensive benefit package known to man. That is our concern. This is the ultimate form of congressional micromanagement and it should be avoided.

Under our plan we provide only minimal guidance to the national benefits commission comprised of experts who then develop and refine a uniform benefit package, taking into account the costs to the Nation. Is Congress involved? Yes, Congress is involved. But under our plan Congress can only vote up or down—just as we do in the base closure process now. We can say we want it or we do not want it. But we will not have the power to amend it. And that is very, very important. Keep Congress from amending the package or we all know it will be so large that the Nation will not be able to afford it.

Our guidance to the commission under the Senate Republicans' plan is to ensure basic coverage with an emphasis on preventive care. Beyond that, we leave it up to the commission.

As to universal coverage. I will just say we all seek that goal. Under the Republican plan we first cover those at 90 percent of poverty and see if the savings that we have set forth indeed do create the savings that we think should be there. If so, then we expand the coverage to those at 100 percent of poverty and below, and thus work our way upward until eventually we get to 240 percent of poverty. We do not cover the entire premium at that level, only a portion, on a sliding scale. But it is a pay-as-you-save proposal.

While I was relieved to see the Clinton draft bill establish a more realistic timetable for achieving universal coverage than the original outline—the plan still fails to tie the extension of coverage to actual savings. Instead, it relies upon an unspecified ceiling to prevent the subsidies from becoming an open-ended obligation for the Federal Government. If, and when, the ceiling is breached, Congress would be called upon to either cut the program or identify new funding sources—a decision most of us could predict today. Thus, the proposal amounts to an enormous new liability—one that we have no earthly way of estimating.

Finally, I want to speak to the issue of creating new entitlements in health care reform legislation. The growth in the Medicare and Medicaid programs, two of our most significant entitlements, is one of the most compelling reasons to reform our health care system. Despite our best efforts to control the cost of these programs over the past decade, both have grown by 10 to 15 percent annually.

We have to be very careful about adding new open-ended spending programs.

By their own estimates, the administration says adding the prescription drug benefit to Medicare will cost $66 billion over 6 years. Enhancing long-term care benefits, they estimate, will cost $65 billion over that same period. The Federal Government paying 80 percent of the retiree health premiums for many citizens who retire at age 55—an obligation normally borne by private industry—is another extremely costly obligation we cannot afford.

In closing, let me make one final observation. As a member of the Finance Committee who has been involved for many years in efforts to hold down the rate of increase in Federal health expenditures, the estimates we based our decisions on were always wrong—sometimes exponentially wrong. And I predict the assumptions we base our health care reform decisions upon over the next year will prove wrong, too. That's why we must proceed with caution.

Let us find what works and what doesn't work. We can achieve coverage of all Americans. Let us do it right.

Mr. BOND. Mr. President, the Senator from California is on the way out to her State to deal with the disaster there. She has asked for 2 minutes. I ask unanimous consent she be recognized for 2 minutes not to be charged against our time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the senior Senator from California.

CALIFORNIA FIRES

Mrs. FEINSTEIN. Thank you, Mr. President. I thank the Senator very much and beg the indulgence of the United States Senate in this regard.

It is my view that the situation in California is extraordinarily serious, and I believe the President will most likely declare a disaster very shortly. I believe, also, based on the fact that I have had a lot of disaster training, I can be helpful in California with FEMA. I would like to ask one thing of FEMA, that in five counties they immediately get their eligibility people working in those counties so they are available. Second, I think Senator BOXER will be joining me, and, quite possibly, the Secretary of the Interior, Bruce Babbitt.

It is my request of the leadership, if possible, to move up the cloture vote. We would like to get to California just as soon as we possibly can. The most serious fire is the Laguna fire, which has burned 8,000 acres, destroyed more than 300 homes, has 1,000 firefighters and 125 engines; 25,000 people have been evacuated. It is at about 30 percent containment with no control. That is the fire that was believed to have been started by an arsonist.

They are hopeful to be able to gain some containment on it. As you know, it has destroyed a school, it has approached the town. These are very large and very serious fires. And, with the Santa Ana winds blowing, it makes it even more serious.

I would like to say just one thing to the people in the fire area. That is, we are all Californians for one reason. We believe we can conquer things like this. Now is the time for all of us to come together, to stand together, and to be helpful to one another. I would be hopeful that there would be no looting and that no one would proceed in any way other than a helpful manner, to help one another. We can survive this and we will if we work together.

I yield the floor and thank the Senator very much for the time.

The PRESIDING OFFICER. The Senator from Missouri has approximately 17 minutes left from his half-hour.

Mr. BOND. I thank the Chair. Mr. President, our thoughts and sympathies and very best wishes go with our colleagues to California as they deal with these disasters. As one who has experienced this all of this summer and into the fall, we truly understand the problems they face.

HEALTH CARE REFORM

Mr. BOND. I wish to yield to my colleague from the State of Washington who has a very pressing engagement himself and has been a great leader in developing health care proposals. I yield 4 minutes to Senator GORTON.

The PRESIDING OFFICER. The Senator from Washington is recognized for 4 minutes.

Mr. GORTON. Mr. President, those Members on the other side of the aisle who just a few moments ago lauded the President, his administration, and Mrs. Clinton, for their proposal and for putting health care at the top of the agenda of the Congress of the United States, did so accurately and did so in a way in which this Senator would like to join. We are in this debate because of their interest in the subject. It is an important first step toward an accommodation, toward a melding of plans which will provide health care security for the people of the United States at a price which they can afford.

This Senator wishes to associate himself with the remarks of the Senator from Rhode Island on a number of the features of this bill, most particularly the attempt to create a basic health care plan by statute and to share his apprehensions that, if Congress places itself in the midst of that debate, this will not be a basic health care plan but the most expensive which could possibly be devised under any set of circumstances.

This Senator, representing the State of Washington, however, has some extremely serious concerns about other aspects of the President's plan. The legislature of the State of Washington in the spring of this year, at the insistence of our Governor, passed a comprehensive health care reform which was approved by a wide sector of the population of the State of Washington. At the time of its passage, our Governor came to Washington, DC, spoke to President and Mrs. Clinton, and was assured that the Washington State plan would be a pattern for the Federal plan and that the State would be able to implement what its legislature had decided to do.

This Senator got the same assurances in writing from the Secretary of Health and Human Services and from Mrs. Clinton. Reading the plan, however, those promises have not been kept. The State of Washington will not be able to implement its plan. Its legislature will have to meet and revamp it totally from the beginning. The plan which the President has is far more regulatory and far more centralized. It is far more expensive from the point of view of employers, both large and small in the State of Washington. The President's plan includes no ERISA waivers that are needed by Washington or by any other State requiring those waivers, and allows flexibility to the State only if the State becomes more regulatory than is the Federal system and goes directly to a single-payer plan.

This is not the flexibility which the people of the State of Washington were explicitly promised by the administration. It frustrates all of the work that they have done to bring people together and says that work has been wasted.

This is an extremely serious problem. Our citizens do not want and do not deserve to be taxed twice for the same set of services. They do deserve the flexibility to carry out their own desires in a way which is responsible, which provides health security for all of the people of the State, which covers everyone, which is universal in coverage and which will not inevitably end up being the tremendous Cadillac or Mercedes of a specific statutorially imposed plan that is inevitable with respect to the President's bill.

We do need to work together. We do need to come up with a proposal which the people of the United States can afford which guarantees health care security for all and which allows States which have acted responsibly in this area to enforce and to administer their own plans. I regret that at this stage, the President's plan does not do so. I trust that during the course of the debate, it will be modified very much in the direction of suggestions of the Senator from Rhode Island and others who are concerned with this issue and become a true health security plan for all Americans which all Americans can afford.

Mr. BOND. Mr. President, I thank the distinguished Senator from Washington. I think he has done an outstanding

job in outlining concerns that many of us have about overregulation in the proposed health care plans.

Certainly, I can understand the view as a Senator from Washington he would have about the potential denial of flexibility for that State to determine its own health care programs and needs. Similarly, I believe that the comments by the Senator from Rhode Island [Mr. CHAFEE] outlined the real dangers in having the political process try to determine benefits.

Mr. President, I had the pleasure of serving as Governor of the State of Missouri for 8 years, and if ever there was a time when the old adage applied that, "If you like sausage and the law, don't watch either one of them being made," if it ever applied to the legislative process, it was during the debates on what had to be provided in terms of health insurance and health care coverage. That is the political process at its least charming, its least effective, and its most costly.

Mr. President, in the previous hour, I spoke about the HEART Program, the program that many of us on this side of the aisle are supporting. We said clearly that we believe under this program we do achieve universal access and coverage to all Americans. We provide them with the security of knowing there is health insurance or their health plan is not going to be canceled or the premiums jacked up when they get sick. If they move from job to job or into or out of the job market, they are not going to lose their insurance. They are going to have to pay the premiums, but they will either get tax deductions or, if they are poor, they will get vouchers to pay them, but they will have to pay.

We also believe that competition is working today where employers and other purchasers have come together and they have used information, electronically developed information to find out which hospitals and doctors and plans provide the best health care.

We believe that can assure competition and will drive the provision of health care services to the most effective and least costly.

We have spoken already, and I have addressed the question of why we did not go for employer mandates. Very simply, they cost jobs, particularly low-wage jobs. Also, I talked about the budgetary dangers of promising a gold-plated plan. We could not only destroy the health care services in this country, but we could bankrupt the Federal Government if we continue to provide more and more expensive plans without paying for them.

I want to spend just 2 minutes to talk about why we believe voluntary cooperatives are necessary for purchasing. Voluntary entities are working now—they were established in California and other States—they are working without being established by the State but by individual business groups in Cincinnati, Minneapolis-St. Paul, and in other areas. They have to work well if they are voluntary and not mandated. They have to provide good service.

I was a little bit concerned as I flipped through the Health Security Act. I apologize; I have not read it all yet and may not, but I went through to see what these mandatory alliances that everybody would have to acquire their health insurance for would do. They are not just purchasing cooperatives. They would monitor premiums to ensure they stay below 120 percent of the weighted average; they would establish a fee schedule for fee-for-service plans; they would update rates of fee schedules; they would monitor the budget, and if it turns out that spending more than the National Health Board, the Federal Government says is appropriate, they would reduce payments to meet the budget. People are going to get their health care rationed by these mandatory health alliances.

The alliances would be required to ensure the enrollment of all eligibles. Where there is oversubscription, if too many people are on a fee-for-service plan, then they engage in random selection. If you go to an alliance, you might not get the plan you want because they have to live under a budget and that limits them.

They would approve or disapprove marketing promotional materials provided by the health plans and they would require health plans to serve designated community service providers.

These are regulatory activities that I do not believe are the proper mandate of Government or supposedly a voluntary purchasing cooperative.

We want to work together with the Members on both sides of the aisle to ensure universal access and coverage for health benefits that cannot be taken away if you get sick and cost containment through competition.

Mr. President, I yield the remainder of my time to the Senator from Texas [Mr. GRAMM].

The PRESIDING OFFICER. The Senator from Texas has approximately 6 minutes.

Mr. GRAMM. Mr. President, I thank our dear colleague from Missouri for yielding.

As we all know, yesterday we finally got a copy of the President's bill, and the most striking thing to me about the President's Health Security Act is that with all the discussion about universal coverage, with all the discussion about guaranteeing that Americans get health insurance and keep it, when I look at this bill, I find that 19 pages of this bill have to do with universal coverage and 1,323 pages of this bill have to do basically with the Government taking over and running the health care system of America.

The President said yesterday that he was willing to compromise on health care and so are we. We think we can work with the President to help Americans get a good insurance policy and to help Americans keep that insurance policy. If they change jobs, we want to change the system so they do not lose their insurance. If they get sick, we want to change the system to ensure they do not lose their insurance. But where there is going to be a major difference—a difference in philosophy, a difference in values, a difference in belief about how markets work and how Government does not work—is not about the 19 pages having to do with universal coverage; it is about the 1,323 pages that have to do with the Government taking over the health care system.

The real debate is not going to be about helping Americans get covered. The real debate is whether or not we can control cost by trying to promote price sensitivity and price competition, which is the basic Republican approach and, quite frankly, the American approach. We do not have efficiency in providing food to the American people because of the Government. We do not have efficiency in terms of producing automobiles because of the Government. We do not have efficiency in providing housing because of the Government. We have efficiency in those areas because of price competition, and we want to bring that price competition to medicine.

That is what the debate is about: Shall we deal with costs by having the Government run the health care system? Is there anybody who can believe that by having the Government take over the health care system that we are going to reduce costs, that we are going to reduce paperwork, that we are going to reduce bureaucracy?

I sometimes wonder, Mr. President, if this is a joke or a debate.

I wish to share one little interesting thing with my colleagues this morning which I think is a perfect example of the doublespeak of this bill on a fundamentally important subject.

Let me begin on page 15. On page 15 of the President's bill, we have a subheading that everybody is going to love to see. It says:

Protection of Consumer Choice.

The President is very sensitive because he knows his bill limits consumer choice, but he does not want the American people to know it. So he has a subheading:

Protection of Consumer Choice.

Then he says:

Nothing in this Act shall be construed as prohibiting the following:

And the big item is:

An individual who is not an eligible individual from purchasing health insurance (other than through a regional alliance).

In other words, if you are ineligible for this plan, you can go out and buy

private health insurance. It sounds good. But then you look back to page 14. You find out who is eligible:

A citizen or national of the United States; an alien permanently residing in the United States; a long-term nonimmigrant.

Who is eligible to buy private health insurance under the President's plan? It looks to me like an illegal alien. Nobody else would qualify for this consumer choice. The real story on this issue, Mr. President, is over on page 239. And when the American people understand this provision, the President's plan to have the Government take over the health care system is going to die a quick and deserved death. Let me read it:

No health plan, insurer, or any other person may offer to any eligible individual—

That is everybody in America but illegal immigrants—

a supplemental health benefit policy that duplicates any coverage provided in the comprehensive benefit package.

That provision on page 239 cancels the private insurance policy of virtually every person living in the United States of America. Now, what happens if somebody tries to sell you a private insurance policy, remembering that this is the United States of America we are talking about. What happens is, and this is on page 241:

An entity that knowingly and willfully violates any provision of this section with respect to the offering of a supplemental health benefit policy to any individual shall be subject to a civil monetary penalty (not to exceed $10,000) for each such violation.

In other words, under the President's plan, if you work for a normal company with 200 employees, your health insurance is going to be canceled. You are going to have to buy health insurance and health care through a government collective. Anybody who tries to sell you private health insurance can be fined $10,000 for trying to do it. Is that consumer choice, when you cannot go out and buy a private health insurance policy from Blue Cross-Blue Shield? Is this a free country? That is the relevant question.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. There is 30 minutes under the control of the majority.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that I proceed for 15 minutes under that 30-minute order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from South Carolina for 15 minutes.

NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. HOLLINGS. Mr. President, with respect to the North American Free-Trade Agreement, I am very saddened to see the attack strategy of our administration, the dissembling, and outright fraud they have resorted to in their campaign to sell this agreement—an agreement that is clearly to the detriment of U.S. economic interests.

The President earlier this week touted his White House tent display of products the United States exports to Mexico. He pushed the theme. "Why Can't We?" And he was very passionate about the United States: "Don't tell me we can't compete with little Mexico."

That is a complete misstatement of what is at issue with NAFTA. It is not the worker of the United States failing to compete with the worker of Mexico. It is the President of the United States failing to compete with the President of Mexico. The President of the United States is a democratically elected executive whose power is checked, generally speaking, by the power of the Congress. It is the President and the Congress that have burdened U.S. industry with huge, mandated costs of production. We come in, Republican and Democrat, President and Congress, and we require that businesses foot the bill for Social Security, health care, safe working place, safe machinery, plant closing notice, parental leave, clean air, clean water, and so on. And every one of these mandated costs increases the cost of U.S. production. In contrast, the President of Mexico, virtually a dictator, assures that regulation of industry exists on paper only—is not enforced—and that independent labor unions are strangled in the cradle.

So we face a totally incongruous situation of free United States markets and free United States labor competing with controlled Mexican markets and controlled Mexican labor. This is a sure-lose situation for the United States. Look at what has happened in a similarly incongruous trade relationship with China. In a 5-year period, we have gone to a $23 billion annual deficit in the balance of trade with China. And if they think this is the model for proceeding now with Mexico, they are crazy. If so, why not get a free trade agreement with China, which has prison labor and strict control by the Communist government?

Do not dare question the ability of the U.S. worker to compete. The Christian Science Monitor recently ran an article titled "U.S. Still Leads the Pack on Productivity." The article confirmed that, with respect to national output per capita, with respect to labor productivity, with respect to manufacturing productivity the American worker is No. 1 by far. Japan and Europe trail way behind.

We are No. 1, yet we have cut back our real wages in the United States. Our take-home pay has been going down the last 20 years and we are still the most productive. So do not preen at the White House with these tents and toys. And do not portray this cross-border competition as some kind of sports show by saying, yes, we can compete with little Mexico. It is he, the President, we, the Government, who are not competing with the Government down there.

The next dissembling point, of course, is to plead that, well, the United States is going to lose jobs to Mexico anyway. Mr. President, I have a personal experience in this light. I have been championing now for 27 years the adoption of a textile bill. It was passed five times, vetoed four times, but passed in this Senate five times. Each time I have been in intimate association with the executives and labor leaders of the textile industry.

One of the things we have been fearful of for the last 7 years is the General Agreement on Tariffs and Trade—GATT—the Uruguay round. GATT includes a proposal that would phase out our multifiber arrangement regarding textiles.

Interestingly, the Bush administration U.S. Trade Representative produced a study showing that GATT's phaseout of the multifiber arrangement would lose over a million U.S. jobs. Carla Hills deep-sixed that particular report. This was followed by a study by the Wharton School of Business showing we would lose 1,300,000 jobs and the U.S. textile and apparel industries would be devastated.

Now comes NAFTA. The textile industry stands to lose a million jobs, but many executives in the industry do not care about it. I quote one leading voice, a distinguished citizen of my own State and chairman of the board of Springs Industry. He says:

We will always lose the lowest paying, least productive firms in any industry. That is the free market system.

That is Mr. Walter Elijah. Now, this is what disturbs this particular Senator. As their representative, the textile industry wants me to say, "Oh, no, we cannot lose a million jobs because of GATT, but let us endorse NAFTA, it is OK to lose a million jobs."

By the way, do not construe my opposition to NAFTA as blanket opposition to free trade. I supported and voted for the Canadian Free-Trade Agreement because our two countries have similar standards of living and the same free press, free markets, clean judiciary, and so on.

But Mexico is a very different story, with its one-party State, corrupt judiciary, Government-manipulated trade unions, and so on.

Mr. President, after months of denying that NAFTA will cost U.S. jobs, the administration has now moved to create a $3 billion fund to provide relief to communities that will be devastated by NAFTA. This morning's Washington Post reports a proposed new $3 billion North American Development Bank to help clean up the job-loss wreckage that NAFTA will inflict.

Well, that is good news to this Senator from South Carolina because, having myself carpetbagged in the Northeast 30 years ago, now Mexico is carpetbagging in my own backyard in South Carolina.

As companies now based in South Carolina depart for Mexico, now I will have a source of compensation for thousands of South Carolinians who will lose their jobs.

It is too bad we do not have a development bank for South Carolinians who have already lost their jobs to Mexico—unemployed workers from Cummins Engine in Charleston, Pratt Read in Liberty, Kyocera in Conway, United Technologies in Bennettsville, Rotron in Orangeburg. I visited the new Kyocera plant in Mexico 2 weeks ago. Kyocera laid off 681 in Myrtle Beach and another 153 in Conway.

So I am going to call up the folks down in Horry County and tell them we will have welfare now for the 834 jobs lost there.

Mr. President, let me address the matter of Lee Iacocca's TV ads in support of NAFTA. I know Iacocca well, having worked with him a decade ago to extend a $1.5 billion loan guarantee to bail out Chrysler.

I will ask Lee Iacocca to withdraw his ad because it is absolutely false, an absolute fraud, and he knows it. He says:

Let us not twist the facts. We are worried about the wrong thing at the time and the wrong place. NAFTA opens up Mexico to our machine tools, computers, cars, trucks, electronics—

But Business Week exposes the real game, which is to export to Mexico not products but investment and factories, which will then be used to produce for the United States market. Quoting from a March 16, 1992, article in Business Week:

Even if negotiations for a NAFTA bog down, Big Three executives expect the Mexican auto industry to double by the year 2000 to 2 million vehicles. And with an agreement, says Ford Motor de Mexico President Victor Barreiro, "We could be making 3 million units a year here, or more."

The same article quotes one Big Three executive in Mexico City: "We would put a lot more plants in Mexico if it were not for the UAW."

That tells the story. The UAW is trying to maintain standard of living, health care, and jobs.

We would put a lot more plants in Mexico if it were not for the UAW.

Of course, we well understand Mr. Iacocca's enthusiasm for Mexico and NAFTA. As chairman at Chrysler, he built an engine plant in Rames Arizpe; expanded his Toluca, Mexico, plant by $100 million, and built a new truck plant at Alargo Roberto with a capacity of 150,000 vehicles.

Incidentally, Chrysler pays the 25 percent on the trucks they import from Mexico. With NAFTA, that tariff is reduced to 12.5 percent immediately, then phased to zero in 5 years.

It is not just the Big Three. Nissan is investing $1 billion in a new plant in Mexico. Volkswagen has announced a $1 billion investment in their plant in Mexico. Those cars will be produced not for the Mexican market, but for the United States market.

The sucking sound is not only caused by investment and jobs leaving the United States for Mexico. The sucking sound is caused by investment from Asia and from Europe locating in Mexico as a duty-free export platform for flooding the United States consumer market. That is the big game under chapter 11 of NAFTA. European and Asian investors get security that they cannot get from the Mexican dictatorship government right now without NAFTA's safeguards.

Along comes the Special Trade Representative, Ambassador Kantor last week, and he parroted the same line. I quote again from Iacocca's pro-NAFTA ad.

Now the Japanese and Europeans think NAFTA is a bad deal. Why? Because it is good for us and it is bad for them. It puts them on the outside looking in on the biggest market in the world.

It puts them on the outside, shipping into the biggest market in the world. Who is kidding whom? I asked Mickey Kantor. I said, "Mr. Ambassador, you show me one article that says folks are against NAFTA in Asia. Show me one article that says folks are against NAFTA in Europe." On the contrary, Europe and Asia are gung-ho for NAFTA for their own selfish reasons.

I recently returned from the British-American Parliamentary Union in Edinburgh. There were Senators there, and 13 British parliamentarians. The British were constantly chattering: "NAFTA, you go ahead with NAFTA."

It got so oppressive that I finally said, "Wait a minute. What about Turkey and the Common Market? You don't mind Turkey in NATO, where they are fighting and dying for you, but you don't want the Turks to trade with you within the Common Market?"

He said, "That is insulting."

I said, "That is the fact. You support NAFTA because you plan to set up plants there with the Asians in order to export duty free into the richest market in the entire world."

Look at this headline from the Japanesse press: "Bank of Tokyo Bullish on Mexico."

I quote from the article:

Manufacturers and exporters to the United States market would obviously benefit by locating in Mexico where their products crossing the border north would not be subject to tariffs.

I quote further:

Mr. Hayama said, "Some Japanese companies may have bad memories of the Mexican Government's attempts to enforce policies on foreign ownership and industrial strategy. But I believe that once Mexico is part of NAFTA, its government will find it more difficult to change policy at its own convenience. Moreover, since Mexico will be concerned about being overwhelmed by the gigantic United States economy, it likely will want substantial Japanese investment as a counterbalance."

Let me cite an article from the Journal of Commerce titled, "U.S.-Mexican Firms Join to Provide Real Estate Services."

In the article, Frank Binswanger is quoted saying:

There has been a tremendous amount of movement by European, American, and Japanese companies into Mexico to take advantage of NAFTA.

A 1992 headline in the Daily News Record reads: "NAFTA No Barrier to Apparel From Asia."

The Journal of Commerce reports that Chinese textile companies are negotiating joint ventures to move production behind the trade barriers into their No. 1 market, the United States. The Journal quotes an Asian businessman saying, "Let there be no doubt. Exemption from quotas and duties is the main motive for the venture." The article notes that the Shanghai Textile Bureau bought 100,000 square feet of land in the Mexican trade zone for a textile factory.

Rho Tae Woo, the President of South Korea, said in the Journal of Commerce that the proposed North American Free-Trade Accord would boost Korean investments in Mexico.

Mr. President, who is kidding whom about the Asians being afraid of NAFTA? This is another strawman in the NAFTA debate. That is the whole fraud. And they do not want to have any debate here in the U.S. Senate. They put on these tent shows, orchestrate articles in the press, and buy these double page pro-NAFTA ads. Iacocca says support for NAFTA is a "no brainer." Mark Twain said, "The truth is such a precious thing it should be used very sparingly." That is the Iacocca philosophy.

"So let us not build a wall around ourselves just when they are coming down all over the world," says Iacocca.

Break down a wall? We are trying to break down the wall of one-party rule and corruption down there in Mexico. We want to open it up with a common market approach, to build democracy, and build the economic strength of both countries. We are for Mexico. We are for the Common Market approach. But we are not going to be sold this bill of goods on NAFTA which is going to inflict very real harm on the economy of the United States.

I thank the distinguished leader for the extra time.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from South Dakota is recognized.

Mr. DASCHLE. Mr. President, as I understand it, a certain amount of time has been designated to the majority for morning business purposes.

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The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. DASCHLE. Mr. President, I ask unanimous consent that that 15 minutes be extended 5 minutes, to make it 20 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE HEALTH SECURITY ACT

Mr. DASCHLE. I yield myself 10 minutes at this time.

I rise to join many of my colleagues this morning in congratulating the President and the First Lady for the presentation of the Health Security Act yesterday in Statuary Hall. I commend them not only for making the presentation but for the specificity with which they have now addressed comprehensive health care reform in this country.

The President, in elaborate detail, outlined exactly what his intentions are. He committed himself a month ago to six very important principles when he enunciated his goals for health care reform. Yesterday, we had the opportunity to hear exactly what he has in mind as he addressed each and every one of those principles. I hope over the next several months, as we examine the worthiness of each of those principles, we also ensure that we define those principles exactly.

There is a big difference, for example, Mr. President, in talking about the need for universal coverage when some of the competing plans also talk about something universal—but it is not coverage, it is access. The President outlines his strategy for providing universal coverage to every single American. That is what we are talking about when we talk about security—security for every American regardless of his or her circumstance. But there is a difference between providing universal coverage and, as many of the other plans do, providing some degree of additional access. I think that is a very important distinction.

The President has also indicated exactly how he intends to acquire savings, another principle he announced, along with simplicity, choice, quality, and responsibility. The President specifies in elaborate detail how he fulfills each of these principles, and his method for achieving these goals will be the subject of intense scrutiny over the next several months, as it should be. So I commend the President and this administration for their leadership in bringing us to this point.

Let me also commend the large number of cosponsors who have indicated they, too, want to be part of the increasing momentum for health care reform, led by the President. They are: the Presiding Officer, Senator AKAKA; Senator BAUCUS; Senator BOXER; Senator BUMPERS; Senator NIGHTHORSE CAMPBELL; Senator CONRAD; Senator DODD; Senator FEINSTEIN; Senator GLENN; Senator GRAHAM; Senator HARKIN; Senator INOUYE; Senator JEFFORDS; Senator KENNEDY; Senator LEAHY; Senator LEVIN; Senator MATHEWS; Senator METZENBAUM; Senator MIKULSKI; Senator MITCHELL; Senator MOSELEY-BRAUN; Senator MOYNIHAN; Senator MURRAY; Senator PELL; Senator PRYOR; Senator REID; Senator RIEGLE; Senator ROCKEFELLER; Senator SIMON; and Senator WOFFORD.

Mr. President, already 31 Senators have committed themselves to the passage of the Health Security Act. We have 20 more to go, and I am convinced that over a period of time that is exactly what we will have.

This is a historic opportunity. It is an opportunity for us to address, in a comprehensible way, a problem that has been undermining the economy, and the fabric of our society for too long. It is an opportunity not only to address one of the most perplexing and complex domestic issues facing our country, but I believe it is an opportunity for us to prove to the American people that we have the capacity to address and solve a problem as consequential as this. We need to be able to tell the American people when this day is done that we have, in a constructive, bipartisan way, led the country to a new day in providing health security and savings to all citizens. We must be able to assure all children they have the opportunity to receive health care for their entire lives. We must be able to tell workers that they no longer have to worry about whether they work for an employer who provides insurance or an employer who does not, because that worker will always have coverage. That is the kind of leadership our people want from this Congress. This is our opportunity to demonstrate that we can lead, that we can provide innovative approaches to solving the problems this country faces.

There is a good deal of cynicism about that, Mr. President, about whether we have it within ourselves to put partisanship aside, to put all of the special interests outside of this Congress where they belong as we begin to grapple with this problem.

Americans are saying: Show me. If you want my respect and support, then show me that you can take a problem as important as this and solve it. Show me. Prove to me that my cynicism is not warranted.

Well, I hope that as we begin this debate, we can deal with what I consider to be the single biggest obstacle facing us. That obstacle, Mr. President, is misinformation. It is perpetrated by special interests who do not want this legislation passed. It is perpetrated by people even within this body who do not feel the need to pass comprehensive health care reform. There will be a good deal of misinformation, and it is up to us to sort it all out.

I am concerned about the degree of hyperbole that I have already heard about socialized medicine and all of the old rhetoric that we have heard for years and years that has kept us from passing comprehensive health care reform. So let us beware that we are going to hear misinformation and hyperbole, and it is important that we filter it out.

In that regard, I do hope that we hold all health reform plans to the same standard of scrutiny to which we hold the President's plan. I do hope that as we analyze the Health Security Act, we put all of the plans side by side and evaluate just what they do. I must say that I have had that opportunity, and in so many of the categories that we agree are important, the competing plans fall miserably short. Many do not provide universal coverage. Many do not provide a plan for savings. Many do not provide a comprehensive financing scheme. Many do not require personal responsibility on the part of the American people.

So if, indeed, we are going to analyze all the plans and look at their strengths and weaknesses, let us compare them in an honest way.

In that regard, I must say I am very disappointed at today's edition of the Washington Post for the cursory manner with which it tried to compare various health reform plans. The chart they printed is a real disappointment. I believe they can do better than this. For example, when I look at the financing category, the chart says the way that Senator CHAFEE intends to finance his plan is to limit deductions on premiums and reduce Medicare and Medicaid spending. Is that the entire financing mechanism? For the Clinton plan, they list several financing sources: an employer payroll premium, an employee contribution, a 75-cent cigarette tax, and a 1-percent payroll tax on large employers. They have quite a bit of detail when it comes to the Health Security Act. But when they discuss the Chafee, Cooper, Michel or Gramm plans, they do not have nearly the same level of detail. For the Gramm plan, for example, all it lists is a cut in Medicare and Medicaid. Does this imply that a cut in Medicare and Medicaid is going to finance the entire health care system?

Let us be more thorough and honest as we analyze these plans.

I think it is important as we look at these proposals that we analyze them correctly, in a way that gives us the best information, in a way that compares apples to apples and oranges to oranges.

There was an article this morning in the Wall Street Journal that I feel does merit mention in the RECORD, Mr. President. The article discussed the effect that the Health Security Act will

have on small businesses. It contains a chart that describes in very elaborate detail what your responsibility will be if you have a certain wage and if you work in a certain firm. That, of course, is determined in part by the size of the firm and also the level of wages.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT SMALL-BUSINESS OWNERS FACE UNDER HEALTH PLAN

(By Eugene Carlson)

WASHINGTON.—On the morning after the official unveiling of President Clinton's massive health-care legislation, small-business owners will be facing a single question: What do I do?

The simple answer: nothing, for now, but stay tuned.

The plan naturally is subject to great change, or even defeat, in Congress. In any event, the administration says it will take three years of groundwork to provide health coverage under the new plan for even the first 15% of the U.S. population. While the program could begin in some states as early as 1996, coverage for all Americans isn't expected until Jan. 1, 1998. And with congressional debate over the plan likely to last for months, the start-up in many states could take even longer.

While the final form of any new health-care plan is uncertain. Mr. Clinton's Health Security Act is likely to form the framework for a policy that will affect every small employer and self-employed person in the nation. The bill that the White House presented yesterday is the most detailed and definitive version of the plan yet.

Here are the basics of how it would work:

All employers would be required to pay at least 80% of a basic health insurance package for full-time employees. Workers would pay up to the remaining 20% through payroll deductions. Part-time workers would be covered by smaller employer contributions.

Low-wage businesses with 75 or fewer employees would receive substantial subsidies on the price of insurance, depending on the size of the company and the average wage. That is a change from earlier versions of the plan, which had said the financial assistance would apply only to firms with 50 or fewer workers.

A White House briefing paper accompanying the bill says, "For the smallest firms that pay the lowest wages—such as restaurants—the percent of payroll devoted to health care may be as low as 3.5%. That amounts to $350 a year [per worker] for a company with average wages of $10,000—or less than $1 a day per employee."

To get the plan rolling, every employer would be required to submit employee names, Social Security numbers, family status and wages. The information would be collected by a health alliance in the employer's state.

Alliances would be the engines that drive the Clinton health plan. They would negotiate the terms of health coverage by insurers and bill companies for their contributions. Each state would have at least one alliance, and populous states might have several. Alliances would bill employers monthly or quarterly, and the bill would be adjusted for changes in employment levels and hours worked.

The White House says it has tried to simplify bookkeeping for employers by requiring alliances to levy a fixed contribution for each employee category: single person, couple, single parent and two-parent family with children. "There will be one employer price for family policies, regardless of whether both spouses work, or how many children they have," the Clinton briefing paper says. (In cases of two-income couples, both employers will pay the price.)

Here are two examples provided by the White House illustrating how the Clinton plan would affect small employers.

FLOWER SHOP

Mr. and Mrs. Jones, who have two children, own a flower shop. They have three employees—Matt, Jane, and Scott. Matt is a 16-year-old high school student who works part-time after school. Jane and Scott work full time. The shop's average payroll, which includes the Joneses' salary, is $17,000 per year per worker.

Without figuring in subsidies, the flower shop would pay the employer share of $1,546 each for Scott and Jane for a single-person policy, and $2,479 each for Mr. and Mrs. Jones for a two-parent policy—a total of $8,050.

But subsidies for small business would limit the shop's contribution for each employee to 5.3% of the average payroll. The shop would pay no more than $901 a year for each worker. For all four workers and their dependents, the cost would total no more than $3,604 a year.

Because Matt would be covered under his parent's policy, the flower shop wouldn't contribute toward his health insurance.

In addition to what they pay as owners of the shop, Mr. and Mrs. Jones would pay the employee share of their family policy—$872 a year if they enrolled in an average-priced plan. Totaling the employee share and the employer share, Mr. and Mrs. Jones would have family coverage for $2,674 a year.

The total insurance bill: $4,476, consisting of $2,674 for the Jones family coverage and $901 each for Jane and Scott.

SELF-EMPLOYED CONSULTANT

Susan Addington is a single parent living in Virginia. She is self-employed with an income of $40,000 a year. For the family share of her premium, for an average-priced plan, Susan would pay 20% of the $3,893 annual premium for a single parent family, or $779 a year.

She would also pay the employer share for a single parent, or $2,479, for a total of $3,258 a year or $272 a month. And she would be able to deduct 100% of the premium from her taxable income. Currently, self-employed persons can only deduct 25% of their health costs.

The final requirement will depend on what, if any, bill eventually emerges from Congress. Alternative bills proposed by the Republicans and some moderate Democrats wouldn't require companies to provide health coverage for employees.

CURBING THE COST

[Revised cap on small-company payments for health-care coverage as a percentage of payroll]

Average annual wage (in thousands)	Firm size		
	Less than 25	25–50	50–75
Less than $12	3.5%	4.4%	5.3%
$12 to $15	4.4%	5.3%	6.2%
$15 to $18	5.3%	6.2%	7.1%
$18 to $21	6.2%	7.1%	7.9%
$21 to $24	7.1%	7.9%	7.9%
More than $24	7.9%	7.9%	7.9%

Source: White House.

Mr. DASCHLE. Mr. President, I will close simply by saying that yesterday was an important moment. It was the second in a series of stages that we will see over the next several months, the third being the formal introduction of the President's bill, perhaps within the next couple of weeks. With formal introduction comes the official consideration of the plan. Let that consideration begin. Let us analyze these bills. Let us develop in a bipartisan way the very best bill we can, but let us make sure we all have the same facts.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania, [Mr. WOFFORD].

Mr. DASCHLE. Mr. President, will the Senator yield for a moment for me to make a unanimous consent request?

Mr. WOFFORD. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. DASCHLE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate resumes consideration of H.R. 3167, the unemployment bill, there be a time limit of 40 minutes for debate on the Nickles amendment No. 1089, with no second degree amendments in order; that the time be equally divided and controlled in the usual form; that when the time is used or yielded back, the Senate vote on or in relation to the Nickles amendment; that upon disposition of the Nickles amendment, the Senate then resume consideration of the motion to invoke cloture on the conference report accompanying H.R. 2520, the Interior appropriations bill; that there be 25 minutes of debate, with 15 minutes under the control of Senator WALLOP and 10 minutes under the control of Senator REID; that when the time is used or yielded back, without any intervening action or debate, the Senate vote on the motion to invoke cloture.

This has been cleared by the Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I thank the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

HEALTH SECURITY ACT

Mr. WOFFORD. Mr. President, yesterday we did indeed reach another milestone, a milestone in the work that Pennsylvanians sent me down here to do. Nearly half a century ago Harry Truman first proposed national health insurance and he was beaten, but now, after decades of false starts and gridlock, Washington is finally responding to the self-evident truth that quality, affordable health care is a right of all Americans not a privilege for the use of the few.

Everyone has now, I think, got the message Pennsylvanians sent in 1991

that American families and companies cannot afford the growing insecurity, the skyrocketing costs, the loss of choice of doctors and plans, the out-of-control paperwork and red tape of our current system.

During that debate 2 years ago the question was whether to reform our health care system. Now we won that debate. The question is how.

The President's proposals, I am happy to say, are in line with the bill that Senator DASCHLE and I introduced last year. But what is more remarkable is the amount of common ground so many Democrats and Republicans now share, common ground that did not exist 2 years ago. The challenge for us in Congress in the months ahead is to build on that bipartisan common ground and craft a uniquely American plan to change what is wrong and preserve what is right with our health care system in this country.

I believe the President's Health Security Act provides the best single blueprint for action. No one believes that any one plan is perfect, and there is plenty of finetuning to do. Some improvements were made in the President's plan in the last 2, 3, or 4 weeks.

No one side has all the answers. There are a number of alternative health care plans now on the table. Up to now almost all the debate has focused on the preliminary draft of the President's plan. Now we have the full details and full weight of the President's proposal and we will examine them closely in public hearings.

We must also apply that same standard of critical, skeptical scrutiny to the other main alternatives. I am convinced that nothing will do more to build support for the Health Security Act than a full discussion with the American people about what the alternatives are and how they fall short.

Some are arguing that we should only take a few steps at this time and enact partial solutions, that the status quo is not all that bad. But reforming a $900 billion, going on to $1 trillion health care industry is like crossing a canyon, a deep canyon. We have to reach the fixed goals on the other side of universal coverage and cost control. As Wile E. Coyote always found out chasing the road runner, you cannot get across the abyss in two jumps. Getting only half way there leaves you in midair, heading for a long, painful fall. To do the job right—and we have the historic opportunity now to do the job right—we must make it all the way across that deep canyon to the other side and get to health care that is always there and that we can afford.

To varying degrees each of the other alternatives before us fails to get us there. They fail the fundamental test of real health care reform that I have been working for and so many Members of this body have been working for since they came to this body. Those alternatives do not guarantee comprehensive coverage for everyone, and they do not control the out-of-control costs, the inflation in our health care system.

That is why I have, with due respective, called the Chafee, Cooper, and Gramm proposals, respectively, a tourniquet, a Band-Aid and snake oil. One has some strong insurance reform that will provide only partial help. Another bandages part of the wound. I told Representative COOPER yesterday, a Band-Aid is not bad, it can help, but it offers no cure. And the last, Senator GRAMM's plan, is really just a placebo. More medi-spend, spend your life saving than medi-save.

Mr. President, I will just add a few words now about the third alternative, because both the Cooper and Chafee plans contain a number of similarities to the Health Security Act, and I believe that in the months ahead through debate and analysis the logic of the facts will help us expand those areas of agreement and find the ways to come together on the areas of disagreement. I look forward to that.

As for Senator GRAMM's plan, it does almost nothing to reform a health care system in which costs are out of control and millions of Americans are losing their coverage and millions more are worried every day about losing it. It does not even accept the idea that coverage ought to be guaranteed for everyone, that benefits ought to be comprehensive, or that costs must be controlled. It leaves consumers to go it alone and sink or swim in a ocean of insurance redtape that is leaving Bambi to deal with Godzilla.

The President's Health Security Act, which so many of us are now cosponsoring, guarantees coverage for everyone throughout their lives no matter where they live or work. It guarantees cost controls for both the private and public sector. It does not push the balloon of public sector down only to have it pop up in the private sector on families and companies. It assures that health care benefits will be truly comprehensive with no lifetime limits; that there will be preventive care for all; that there will be consumer choice of health plan and of doctors more than people now have, as they are losing that choice under the cost pressures from their companies and there will be simplicity through the health security card, single claims form and electronic billing.

Now, we have a President who has put a serious proposal on the table that has been the result of months of hard work and bipartisan consultation. Now Congress must take the ball and run with it. The people want action on health care, not more gridlock; they want hard results, not easy answers. We have come too far and worked too hard and the problem is mounting too high for us to turn back or slow down. We have to get across the canyon and deliver the goods.

I yield the floor, Mr. President.

The PRESIDING OFFICER. There is 1 minute 20 seconds remaining in morning business.

The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I yield back the remainder of that time.

RAUL WALLACH

Mr. REID. Mr. President, from time to time, as public servants, we receive correspondence of the most vicious type. I am particularly disturbed when I receive, as I am sure most of us have, letters and materials aimed at trying to prove that the Nazi holocaust never occurred.

Recently our Nation lost a national treasure; a man who by his very existence refuted the claims of those whom Theodore Roosevelt first called the lunatic fringe.

I first met Raul Wallach when I was the best man at his cousin's wedding. I had heard stories about him for years, he seemed a man who was larger than life until I met him. Raul lived up to everything I had heard.

In 1941, when he was still a teenager, the Germans invaded Russian-occupied Poland where Raul lived with his parents, his five brothers and sister. Shortly thereafter, Raul was kidnapped by the Gestapo and turned over to the SS for slave labor. He stole a machinegun and returned to the ghetto where he found his younger brother. Together they escaped to the woods where they joined a Jewish partisan unit.

Raul fought the Germans for the next 4 years. He became a demolitions expert and a partisan leader. After the war he rescued Jewish children and helped smuggle them to what was then Palestine. Unfortunately, except for his younger brother Moishe, Raul's family was not among the survivors. His mother, father, sister and three other younger brothers were murdered by the Nazis at Auschwitz. Raul spoke with eyewitnesses to that murder.

While leading a group of Czech children on a perilous trip to Palestine, Raul was captured crossing the German border. He was interned in an American-run displaced persons camp. Eventually, American cousins serving in the Army of Occupation managed to get Raul and Moishe out of the camp. Raul eventually became a professional motorcyclist and soccer player in Munich.

In 1952 Raul emigrated to Cuba. He spoke seven languages at the time, but Spanish was not among them. On his first day off, while wandering in a Havana casino, Raul met a little old Jewish man with whom he could speak Yiddish. That man was Meyer Lansky. Raul also knew Fidel Castro and Che Guevara during those days in Cuba, but

when the Communists took power he fled the country and moved to Mexico. He had had enough of living under totalitarian regimes.

Eventually Raul and his brother built up a large family steel business. Raul had a beautiful home in Guadalajara and it was in that city that he met the young American woman whom he eventually married.

Raul and Susan were married for over 25 years and were blessed with three children. One of the proudest and happiest moments of Raul's life was when he lived to see his son Ari bar mitzvahed.

Mr. President, Raul Wallach died last week. His family's loss was ours. There is one fewer just man to stand and tell the truth. One fewer just man to bear witness. We who are living must remember him and what by living he taught us. We must, we shall, never forget.

THE AUDIOVISUAL INDUSTRY

Mrs. FEINSTEIN. Mr. President, I rise today to draw attention to an issue that is important to my State of California and important to our Nation's economy—the free trade of audiovisual products.

American movies, television programs, and home video materials, aside from being the best in the world, are also of great value to America's economy. The industry accounts for a balance of trade surplus of over $4 billion a year, up from $3.5 billion in 1991. As a commodity, audiovisual products rank among the top surplus trade items for the United States.

Our trading partners push for access to America's markets, but also attempt to protect their own domestic markets by arguing for a cultural exemption for audiovisual goods. This is plainly unfair and as I told the President, I expect the United States to reject any agreement which includes such as exemption.

Last week both the Los Angeles Times and the Washington Post ran editorials calling for a free market in audiovisual products. I ask unanimous consent that those editorials be printed in the RECORD immediately following my remarks.

I also want to commend the President for his strong statement in support of the inclusion of the audiovisual services in the upcoming GATT accord. I ask unanimous consent that a copy of the President's statement be printed in the RECORD immediately following my remarks. I also applaud the bipartisan leadership of the Senate Finance Committee who have expressed their concern on this important matter.

Mr. President, this industry is more than mere entertainment. It is one of the most dynamic and important industries in my State and in this Nation. I expect that our trade negotiators will not allow our trading partners to exclude the audiovisual industry from the upcoming GATT agreement or any future trade agreement.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Oct. 24, 1993]

LIGHTS, CAMERA, QUOTAS!

French films have charmed, entertained and inspired over the years. But do they deserve the special protection that France provides by limiting the importation of movies and other audiovisual products? The French say oui, for the sake of culture. Au contraire, counters Hollywood, which wants unfettered access for its films, TV programs, videos and sound recordings. Who's right?

Open markets best serve consumers and industry. Protectionism, even when it's veiled in the glamour of French stars like Catherine Deneuve and General Depardieu, is a bad script for both box office receipts and cultural relations.

In Geneva, the French are trying mightily to exempt all audiovisual products from a new world trade agreement on services being negotiated under the auspices of the General Agreement on Tariffs and Trade. France and other European Community nations already have quotas on foreign broadcasting materials and films. An exemption would allow import restrictions to continue.

U.S. filmmakers Steven Spielberg and Martin Scorsese recently made the unusual move of issuing statements decrying any restrictions or quotas on audiovisual materials. President Clinton has said that audiovisuals must not be singled out for restrictions.

The American film, television and home video industries generate $18 billion in foreign sales yearly. That is $4 billion more than U.S. purchases of foreign audiovisuals. Without quotas in Western Europe, the market would be even greater.

France and its fellow EC members maintain that limits are needed for the sake of cultural preservation. The French—concerned that opening markets would mean the end of its small, government-subsidized film industry—say works of art should not be subject to crass commercial competition like mere commodities.

The issue isn't French culture or even subsidies. In the case of audiovisuals, French subsidies are not subverting free trade. The issue is import restrictions. Let French audiences decide for themselves what's good, bad or ugly.

[From the Washington Post, Oct. 24, 1993]

FRENCH FILM FIGHT

One of the more colorful subfights to the huge GATT trade negotiation is the one being waged between American movie and TV producers and their European counterparts, mainly in France, on whether "cultural products" such as movies should be exempted from the promised lifting of most trade barriers under the treaty. The combination of strong European emotions on the cultural-patrimony front—especially from the French—and a serious financial irritant to American TV and film producers has fueled a debate being conducted at full rhetorical force and with such supporting characters as Martin Scorsese, a French coalmining epic and the dinosaurs from Steven Spielberg's "Jurassic Park." Some French commentators have gone so far as to criticize the un-Frenchness of those who flocked to the opening weekend of the hugely popular dinosaur movie, not to mention local media outlets that have given it a tidal wave of hype.

Despite the cultural hoopla, the driving issue here is financial. If the current "cultural exemption" to GATT is refused—the result the U.S. entertainment industry is pushing hard for, with the Clinton administration's support—European Community countries would have to lift a variety of cultural protection mechanisms they have created for their own products against the much larger and stubbornly successful American ones. In all likelihood, for instance, they would have to drop the year-old EC rule that 40 percent of all material broadcast on a country's TV channels be produced in that country, a direct hit at the cheap, plentiful and easy-to-dub American series that those channels are known to buy up when given the choice. Not coincidentally, foreign resale rights have become a larger proportion of American TV companies' profits over the past few years as the U.S. TV market gets tighter.

Running alongside the money question is the old issue that French intellectuals like to call *"Coca-Colonisation,"* the fact, irritating beyond measure to European governments, that American movies and TV programs enjoy huge and continuing international popularity. The French, in particular, like to point out that the American products are so successful not just because of whatever appeal they may hold for viewers—surely not that!—but because of the benefits of a giant, English-speaking home market that eliminates any need for the huge national subsidies most European countries give cultural products. The U.S. contingent doesn't contest those subsidies—only the subsequent protection of the not necessarily popular products produced with their help. Filmmaker Martin Scorsese is quoted in lobbying materials noting that "closing the borders would not guarantee a rise in creativity in the local countries or even a rise of interest on the part of local audiences." Galling as this may be to certain Europeans, he's right.

THE WHITE HOUSE,
October 14, 1993.

STATEMENT BY THE PRESIDENT

Audiovisual services must be included in any GATT accord. The United States does not want any special favors for American audiovisual creative works, but we also cannot accept that audio-products be singled out for unacceptable restrictions. The United States is ready to sign a GATT accord that is fair and just for all. But let me make it clear that fairness and justice must apply to audiovisual works as well as other elements in a final GATT deal. This is a vital jobs issue as well as a fairness issue for America.

Finally, let me say once again that the Uruguay Round is very important to the restoration of global growth, and that is why it is essential that we finish this agreement by December 15. That deadline is firm, and our trading partners must be prepared to settle with us on the many outstanding issues if we are to succeed.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3167, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Simpson (for Nickles/Shelby) amendment No. 1089, to prohibit the consideration of any retroactive tax increase unless three-fifths of all Senators duly chosen and sworn waive the prohibition by roll call vote.

AMENDMENT NO. 1089

The PRESIDING OFFICER. There will be now 40 minutes of debate on the Nickles amendment, equally divided.

Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma, [Mr. NICKLES] is recognized.

Mr. NICKLES. Mr. President, on behalf of myself and Senator SHELBY, we have an amendment at the desk that we will be voting on, I am guessing, right at 12 o'clock. We have 40 minutes of debate, equally divided. We have reduced the time to try to accommodate some Senators who have other pending business which is very important.

Mr. President, I ask unanimous consent that Senator HUTCHISON, Senator LOTT, Senator MACK, Senator COATS, Senator COVERDELL, Senator HATCH, and Senator BURNS be added as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President this amendment is an attempt to make it more difficult to pass retroactive tax increases.

I think many of us in this Chamber have a real concern about retroactive tax increases, and we have seen already on this bill a couple of votes. I know my friend and colleague from Texas, Senator HUTCHISON, had an amendment to repeal the retroactive tax increase passed earlier this year. She received 50 votes, but needed 60 votes to waive the point of order.

I notice my friend and colleague from Arkansas had an amendment to repeal the retroactive tax increase and was not successful. But I think, again, it shared a lot of concern over the unfairness of retroactive tax increases. I share that concern.

Some colleagues have even introduced legislation to make it unconstitutional to pass any retroactive tax increases. My amendment does not go as far as either of those proposals. It says prospectively we should make it more difficult to pass a retroactive tax increase.

So what this would do is allow a point of order to be raised against a retroactive tax increase proposed in the future, and that point of order could only be waived if there are 60 votes in favor of waiving it. So it does not eliminate any retroactive tax increase. It just basically says it makes it more difficult—and I believe we should make it more difficult—to raise taxes retroactively. So that is the essence of our amendment.

I have modified the amendment, to some extent, to take care of some of the concerns that were raised by members of the Finance Committee, and that is the definition of a retroactive tax increase. We state that no point of order would lie against any retroactive tax increase if the change was made effective prior to the date formal public notice was given regarding the effective date of such material by a committee or subcommittee of either House of Congress.

This would allow the members on the Finance Committee or the chairs of the Finance Committee to have a formal notice that they are planning on passing legislation that would have an effective date and they could announce that effective date. So, if they are going to close a loophole or something like that, they have the ability to do so. This is trying to accommodate some of the legitimate concerns that have been raised by people on the Finance Committee about "what if," and we tried to accommodate that.

But we also tried to say we still believe it should be more difficult to pass a retroactive tax increase if a Senator makes a point of order. It may be that everybody agrees that a retroactive increase is called for. And, if no one makes the point of order, that could happen. So this amendment does not totally, completely prohibit any retroactive tax increase. It just makes it more difficult to do it.

Again, it does not affect the tax increase that passed earlier this year that did have a retroactive tax increase on individuals and on States. My guess is, if we had an up-or-down vote on that in the Senate, it would not have passed and certainly would not have passed on the States. That is my guess.

But we do not touch that. We just say, in the future, Congress, do not do it; but, if you do it, do it so a point of order could lie against it and, if the proponents of that had 60 votes, they could waive the point of order. Again, there is no requirement that a point of order be made. It just allows a point of order to be made.

So I do not think that this proposal is extreme in any way, shape, or form.

I hope it will be supported in a bipartisan fashion by all of my colleagues. I think it is a good step in the right direction to try to protect against unfair retroactive tax increases. And, in many cases—in most cases, I believe—retroactive tax increases are unfair.

Mr. President I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader, Mr. MITCHELL, is recognized.

Mr. MITCHELL. Mr. President, I strongly urge my colleagues to reject this amendment. This is precisely the way in which laws should not be written and especially tax laws should not be written. There have been no hearings, no opportunity for anyone to examine this amendment or this subject. There is no definition of what any of the phrases mean.

This is merely an attempt to score a few political points, to seize upon what appears to be a currently popular issue and, in the process, to create further confusion and ambiguity and difficulty in the tax law.

This amendment says that the Parliamentarian would have to become a tax judge to decide what the words "will result in an obligation to pay a larger tax" mean. What does that mean?

I ask the Senator from Oklahoma, if a person makes an investment based on a particular tax law and that law is changed in a way that makes the investment less valuable, is that a retroactive tax under this amendment?

If a person makes an investment based upon what he or she and his or her tax lawyer understands the law to be and later legislation clarifies the meaning of the law so as to result in a higher tax burden, is that a retroactive tax increase?

When Congress passed the 1986 tax law and limited the ability of investors on previous investments to take passive losses on their investments, which meant they paid a higher tax obligation, was that retroactive?

The tax-writing committees are now considering legislation to make technical corrections to prior tax legislation. Will that be retroactive?

What if a court makes a ruling that interprets a law in such a way that an enormous new loophole is created? Does that mean that Congress cannot correct that?

Mr. President, this is put forward as something to protect ordinary Americans. But we all know who the only beneficiaries of this are going to be. They are the beneficiaries of most of these types of amendments. They are tax lawyers, tax accountants, and those persons with sufficient means to employ them.

How many working Americans have full-time tax lawyers and tax accountants? How many working Americans will be affected by this? The answer is none.

The fact of the matter is, this is just another effort to score a few political points in a way that will provide the worst possible meaning of tax law.

I have asked these questions. I wish the Senator from Oklahoma would come to the floor and answer them. He is the sponsor of the amendment.

Let me cite another amendment. In the early 1980's a technique for reducing taxes by a few individuals by setting up multiple trusts was in fashion. In one publicized case, an individual spread his assets over 200 trusts. A provision that shut down this multiple trust scheme was enacted in 1984. The 1984 act was enacted on July 18, but the multiple trust provision was made effective on March 1, the date that the chairman of the House Ways and Means Committee presented the proposal to the committee.

We do not know if, under this proposal, that would have been covered. How many working Americans have 200 trusts set up and distribute their assets among 200 trusts?

In the Tax Reform Act of 1986, to give just another example, Congress specifically allowed Alaska Native corporations to sell their net operating losses in order to generate cash from their operations. This was intended to give a small boost to these corporations. But it was used in a way not intended and there was a loss of revenue of $1 billion in the first year of operation. To correct that obvious error, Congress terminated the provision in the Tax and Miscellaneous Revenue Act of 1988. The act was enacted on November 10, but that provision was made retroactive to April 26, the date the repeal was first announced in the House of Representatives. That would be prevented by this amendment.

I could go on and on. The time does not permit it. There are literally hundreds of examples of tax abuses that this amendment would insulate and protect. No hearings, no discussion, no explanation, no definition, no answers—yet to score a few political points this is being put forward and Senators are being asked to vote on it.

It is not surprising the Congress falls into disrepute with the American people when this is the way we write laws and write tax legislation. This ought to be considered by the committee. There ought to be hearings. People who have some knowledge and experience in this field ought to come in and testify so the Senate can make a mature, reasoned, considered judgment, instead of just trying to pile this onto an unemployment insurance bill, to which it has no relation, merely for this purpose.

Mr. President, I wish time permitted me to go through this long list of all of the potential problems that could arise under this amendment but I know time is limited and I therefore reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I yield my cosponsor, Senator SHELBY—how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 14 minutes and 40 seconds.

Mr. NICKLES. I yield the Senator 5 minutes.

The PRESIDING OFFICER. Senator SHELBY is recognized.

Mr. SHELBY. Mr. President, just a few months ago, this body not only gave the thumbs up to imposing a quarter of a trillion dollars in new taxes on the American people—it also said it was OK to raise some of these revenues retroactively. Today, Senator NICKLES and I are here to make it more difficult to retroactively raise taxes again.

This legislation is necessary and important to regain the public trust, Mr. President. It is not enough that we tell the American people that retroactive taxes are a bad idea or that we agree that they are unfair—it is enough only if we take definitive steps to prevent it from happening again or make it difficult to happen again.

I believe this legislation is one such definitive step.

The resolution we are offering today would create a presumption against retroactive tax increases. It would change the standing rules of the Senate by making retroactive tax proposals subject to a point of order. Thus, the only way that the Senate could pass another retroactive tax would be if three-fifths of all Senators agree to waive the point of order in a rollcall vote.

I believe, it should be difficult to raise revenues through retroactive taxes. I know it has been done before. But is that right? That is the question. While the Supreme Court has ruled that retroactive taxes are not unconstitutional, they have not spoken to the wisdom of them—that is our job. And while there is no question that Congress has imposed retroactive tax increases on the American people in the past—that does not say anything about their propriety today. Again, that is this Congress' job.

This is about principles, as I see it, not taxes. If we are going to ask American taxpayers to take on greater individual burdens, we should do so honestly and fairly. We should give them fair notice at the very least. Practical, financial reasons require it. Taxpayers need to be able to plan their finances and budget their income without the threat of taxes on money they have already spent, already saved or already invested. I submit that the American taxpayer deserves no less.

Again, this resolution does not prevent this body from raising taxes retroactively—it only makes it more difficult. And it should be difficult. If backdoor taxes are so required by necessity or emergency, this body can effectuate them. But, the general rule will be that they are not in order.

It seems to me that is a pretty good balance. Our resolution therefore, reinforces to the American people that raising taxes retroactively is a last resort and ensures that Congress will only use this tactic when it is absolutely necessary.

I believe this is a reasonable measure and one that I hope all my colleagues will support.

The PRESIDING OFFICER. Who yields time? The majority leader is recognized.

Mr. MITCHELL. Mr. President, let us make clear that only 1 percent of all American taxpayers were affected by the provisions to which our colleagues object, 1 percent—the wealthiest 1 percent whose incomes averaged $300,000 a year.

Someday I would like to see some of our colleagues come in here and express some compassion for the other 99 percent, the 99 percent of taxpayers who were not affected by the provisions, those whose incomes were not $300,000 a year on average. That would really be something new in the Senate, to see concern expressed for average Americans, Americans who work in factories, and nurses, and school teachers, who do not have tax shelters, who do not have trust investments spread out all over the country.

I ask my colleagues, think about that. Surprise us all someday, come in with an amendment that will express concern for the 99 percent of Americans.

Mr. President, I yield 4 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky, [Mr. FORD] is recognized for 4 minutes.

Mr. FORD. Mr. President, I hear this "what if"—"what if"—even the Senator from Oklahoma said "what if?"

We have not studied it. We do not understand what the grave consequences of this amendment might be. I share the majority leader's concern. Also, the Parliamentarian—why should we make an accountant or CPA out of the Parliamentarian, to make a decision whether this is retroactive or not?

For 12 years I have been listening to the other side try to tell me how to do the budget. I never heard one peep out of the Senators and those who are supporting this amendment about the retroactive taxes that we voted in 1981—August 13, 1981, back to January 1, 1981. I did not hear a peep from these Senators when we had the Tax Equity and Financial Responsibility Act of 1982. I did not hear anything from the distinguished Senator from Oklahoma when we had the Deficit Reduction Act of 1984. And just to name three—all of them were signed into law, retroactive, by President Reagan.

There is the fellow we have looked at, he got the country turned around, did all these good things, and my colleagues supported all of the retroactive taxes that he proposed. Now when we have a Democrat in the White House

they are saying, Oh, you cannot do this. You cannot do this.

What are the implications? No one has told me. We finally came in here today and they have changed the amendment again. It has been changed three or four times since it was first introduced. This proposal would make, in my opinion, a significant change in the manner the Senate conducts its business.

Its implications have not been subjected to committee scrutiny and analysis. Mr. President, this proposal should be referred to the Rules Committee where hearings could be held, where all interested parties, mainly the 1 percent—mainly the 1 percent—all the interested parties could present their views and the implications of the proposal could be studied and made available to the full Senate

This proposal also affects bills that are within the jurisdiction of the Finance Committee. I know that committee wanted an opportunity to study this proposal. They have not had the opportunity.

Mr. President, we should be looking at ways to prevent and eliminate gridlock in the legislative process, not always to expand it. Under present rules, a compromise measure must survive a 60-vote test under cloture. Under this proposal, every—I want you to listen to this now—under this proposal, every single provision of a compromise, even that is a retroactive tax increase, would have to survive a vote separately. So every one of them would have to survive a vote separately.

If I have ever seen a proposal that guaranteed to produce legislative gridlock, this is it. We need a chance to study it. So, as our majority leader has said, that we are protecting now and helping that 1 percent, we need something to help the other 99 percent. I will guarantee you, the American people knew what was in the budget. I know the fight about the budget, the retroactive tax was in the budget. There was no hidden agenda there, and so we had to vote in the Senate as it related to that budget, and retroactive taxes were in there.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FORD. Mr. President, this is a bad, bad amendment. We need to study it and try not to bind ourselves again by an emotional item that might be good for the moment.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, I yield to the Senator from Alabama 3 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I do not know of any better place to ventilate an issue like this than in the Chamber of the U.S. Senate, not in a committee where it probably will never see the light of day, but in the Senate where the world is looking at us.

Why do we need hearings to consider the retroactivity of taxes?

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. SHELBY. It is my time. You got your own time.

Mr. FORD. I just want to ask a question. Twenty minutes is an awfully short time to let the world hear it.

Mr. SHELBY. I hope my time is not charged.

Why do we need hearings to consider the retroactivity of taxes, Mr. President, when we basically and the American people believe it is wrong? We do not. We already know that. I know that the American people think they are wrong. We have seen that. The resolution simply makes it more difficult in the future to pass retroactive taxes.

This is not about the top 1 percent. This is a prospective rule, in the future. It is about ensuring that this body does not so quickly impose taxes retroactively on the remaining people in the Nation that the majority leader refers to, the 99 percent.

The amendment does not change the tax law. It only makes it more difficult for the Senate to change the tax law retroactively. That is the gist of this whole argument.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, the reason we need hearings is because none of the sponsors have answered any of the questions that are asked. The Senator from Alabama spoke twice and has not answered any of the questions. I ask—

Mr. NICKLES. Will the Senator yield?

Mr. MITCHELL. What is a retroactive tax? If an investment is made based on a particular tax law and the law is later changed which makes the investment less valuable, does that fall within the definition of an obligation to pay a larger tax?

Mr. NICKLES. Will the Senator yield?

Mr. MITCHELL. Let me finish my questions. I would like to get some answers to them. I have several more questions.

How would the Senate close existing loopholes, including loopholes that were created by recently passed legislation and were clearly unintended?

How would the Senate make technical corrections which have to be retroactive, by definition, to carry out Congress' original intent?

How would the Senate make changes in the tax laws desired by taxpayers themselves if this amendment is adopted, if one taxpayer's liability is increased? One taxpayer in the country, the amendment would be subject to a point of order.

Almost every single tax law change would adversely affect someone's investment, and every tax law passed could be construed as retroactive in some respect. And there is no definition in this amendment. No definition at all. That is why we need hearings, to have definition. That is why we have hearings on anything else.

If we accept the argument of the Senator from Alabama, we would abolish committees, we would abolish hearings and we would just come out here, have everybody offer an amendment, not hear from anyone as to what does this mean, what does that mean—talk about a mishmash, that is where we would be.

So, Mr. President, I just feel that we do not have any answers to questions. There has been no debate, no discussion, no thought given to this. This is a political gesture to score a few political points, and I hope the Senate rejects it.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. How much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 9 minutes and 5 seconds.

Mr. NICKLES. How much time remains on the other side?

The PRESIDING OFFICER. Five minutes and 30 seconds.

Mr. NICKLES. Mr. President, I do not want to spend all of my time trying to answer hypothetical questions.

I ask unanimous consent to add Senator MCCAIN as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, let me just try to answer a few of the questions generically. My colleague from Maine mentioned, what if we found some abuses and we need to stop those abuses? That has happened. We have seen cases in the Tax Code where some people were getting $3 of deduction for every dollar they put in. That is an abuse and, frankly, we stopped it, and we can do that.

You can even do it retroactively under this amendment. You would have to have 60 votes if somebody made a point of order. I might mention, there are a lot of things my colleague from Maine mentioned that I doubt anyone would raise a point of order on. This would allow someone to raise a point of order if it was a retroactive tax increase and if 60 Senators wish to waive that point of order that can happen.

We have points of order right now on budgets, for example. I raised a point of order on the underlying bill because it violated the Budget Act. There is no question it violated the Budget Act. It increases the deficit, according to the Congressional Budget Office by $1 billion in 1994. I raised a point of order. Sixty-one Senators actually voted to waive the budget and they have that right to do so.

Likewise, there would be nothing to prohibit this body from passing retroactive taxes. It would just make it more difficult to do so. They would just have to have 60 votes. I think we ought to make it more difficult to pass retroactive tax increases because I think on the whole they are unfair.

My colleague from Maine mentioned, what about the 99 percent of the taxpayers? He said this was just an effort to protect the 1 percent. That is not the case. As a matter of fact, this is introduced prospectively. It does not touch last year's tax increase in any way, shape or form, but it does say in the future we should have a supermajority before we sock it to the population with higher taxes.

I think the middle-income class people better look out because there are a lot of proposals that are going to be very expensive, they are going to cost a lot of money—like health care and so on—that I am afraid are overpromised and underfinanced and they are going to be looking for more money. Some people will be looking for retroactive ways to raise that money. I hope that is not the case. If it is the case, if we are successful in adopting this, it would take at least a 60-vote point of order. I hope my colleagues support this amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

Mr. FORD. And that it be equally charged.

The PRESIDING OFFICER. Without objection, the quorum call will be equally charged. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, this amendment would pose numerous administrative problems and really is intended to benefit that very small portion of taxpayers who employ tax accountants, tax attorneys, and are aggressive with respect to tax loopholes. From one standpoint or another, virtually any change in the tax law can be considered to have a retroactive effect.

This amendment would require the Senate to consider such arguments in dealing with every provision in every bill. The lobbyists promoting special interests would love to have the opportunity to stop legislation that can be argued in some way, however arcane or remote, to be retroactive.

We have not had any time to consider this amendment, but there are many serious problems that it raises. I have asked a whole list of questions and neither of the sponsors will answer the questions. They have had plenty of time, and they will not answer the questions.

Mr. President, how would the Senate close existing loopholes, including those created by recently passed legislation and which were clearly unintended?

How would the Senate make technical corrections which have to be retroactive by definition to carry out the original intent of Congress?

Mr. NICKLES. Will the Senator yield?

Mr. MITCHELL. On the Senator's time.

How will the Senate make changes in the tax laws if this amendment passes? If a single taxpayer's liability is increased? Could not every tax law change be considered retroactive? How would the Senate be able to pass any change in tax rates at all? All tax increases during the middle of any taxpayer's taxable year would arguably have a retroactive effect. Not all taxpayers are on a calendar year so every tax increase would require at least some taxpayers to close their books and file additional returns.

For example, even if the increase were effective on January 1 of a given year, any taxpayer that uses a fiscal year would have to close its books and file an extra return. This would create an incredible new burden on taxpayers.

The language and the scope of this amendment are unclear and vague. Why is the date of the committee action the appropriate cutoff date? Why not administration proposals? Why not the committee chairman's mark? Why not bills introduced by the chairmen of the tax writing committees? How is anyone going to measure the tax increase? Who will be the arbiter of whether or not it is retroactive? Will it be the Parliamentarian? Is the Parliamentarian going to have the Joint Committee on Taxation compute everyone's liability in order to determine whether a point of order lies?

Mr. President, this is a purely political amendment. It has no substantive merit. It will cause serious problems. I strongly urge my colleagues to defeat it. I yield the rest of my time to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. MITCHELL. How long do we have?

The PRESIDING OFFICER. The Senator from Maine has 1 minute.

Mr. MITCHELL. Then I will yield 3 minutes of my leader time to the Senator.

Mr. MOYNIHAN. I thank the majority leader.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I say to the Senate that we have been holding our first hearing on the national health care proposal which the President sent to us yesterday. Secretary Shalala is before the Finance Committee, and so I have not been here until now.

Mr. President, I rise with a sense of urgency to plead with the Senate not to commence this extraordinary rule change which, in the judgment of the Department of the Treasury, would be disastrous to our whole internal revenue system. This amendment would reward the worst behavior, punish the best behavior, make legislation impossible, make rules incomprehensible, invite evasion, and invite derision.

This amendment says that the normal practices of the Congress, which have been in place for many decades in terms of revenue measures, will no longer pertain. And it puts in place a system that specifically rewards those taxpayers who have the most aggressive lawyers, the most aggressive accountants, and wish to avoid taxation. It, correspondingly, punishes those who think they can play by the rules and expect the Government to be fairminded with them. It states that a provision that increases a tax retroactively will be subject to a 60-vote point of order.

This amendment is filled with ambiguity and uncertainty of an order that brings disarray to the entire Internal Revenue Code. There is a very rare measure we will adopt on the Senate floor reported from the Finance Committee and the House Committee on Ways and Means which will not have some prospective and some retroactive measure to mix and mingle and set dates.

And particularly, as the majority leader said, as we establish the date in which a measure takes place, if we approve the measure, it will be the date on which it was first proposed by the President, by the committee on legislation, or whatever, so that aggressive tax accountants and lawyers will rush in to take advantage of a window such as this measure would create.

Mr. President, it would be offensive to the House of Representatives should we so change our procedures. It would be confounding to the Treasury. It has no business of any kind on a modest measure to extend unemployment compensation benefits for 4 months.

We are changing the rules of the Senate, and there is a mode for that. There are not too many rules. But, we should change them with great deliberation; not without care and not as an amendment at the last hour to an unemployment extension bill.

I plead with Members on both sides of the aisle—and I surely speak for the majority of the Finance Committee—do not do this.

My time has expired, Mr. President.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MOYNIHAN. Mr. President, before I leave, may I ask unanimous consent that there be placed in the RECORD

a 2-page letter from our esteemed former colleague, Lloyd Bentsen, now Secretary of the Treasury, saying Senators do not do this.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, October 27, 1993.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Administration opposes the Nickles amendment, which would add new rule XLIII of the Senate relating to "retroactive tax increases." The amendment would reward taxpayers who exploit loopholes in the tax law, would result in significant complexity for the legislative process and the tax law, and would inhibit Congress in its efforts to reduce the Federal budget deficit.

The Nickles amendment would severely limit the ability of the Congress and the executive branch to prevent tax avoidance. Unless the point of order that the Nickles amendment would create were waived by a supermajority, tax loopholes would remain open until a bill was signed by the President. This would be true even if Congress or the executive branch had previously identified the loophole and proposed its elimination. The effect of the provision would be to invite exploitation of loopholes to the greatest extent possible prior to the date of enactment of legislation. As a result, the amendment would reward the most aggressive taxpayers, to the detriment of the public at large, who would bear the burden of paying for the revenue loss attributable to the loophole. Moreover, while tax loopholes could be closed on a prospective basis only, provisions benefitting special classes of taxpayers (*i.e.*, targeted tax expenditures) could be passed with a simple majority vote, even if retroactive.

The Nickles amendment would also greatly complicate the consideration and passage of the legislation and would add complexity to the tax laws. Many issues would arise concerning the application of the rule in the Senate. For example, would the Senate be required to obtain a supermajority to pass a technical corrections bill that clarified taxpayers' obligations under previous legislation? Would a supermajority be required in the case of "blended rates," under which fiscal-year taxpayers may pay a rate that is a blend of an old and a new rate, or calendar-year taxpayers would pay a blended rate in case of a tax rate that changed in the middle of the year? The literature on retroactive tax changes is extensive and complex. The great number of issues raised in that literature could potentially become the subject of Senate floor debate if the Nickles amendment is passed. Similarly, drafting tax legislation to avoid any theoretical possibility of retroactivity could greatly add to the complexity of legislation that is passed.

Finally, the Nickles amendment would create impediments to the executive branch's and Congress's ability to address the Federal budget deficit. The President is required to present the Administration's budget at the beginning of the calendar year. Few executive branch actions receive greater publicity than the Administration's submission of the budget. Nevertheless, even if the President proposes tax changes in the budget, those changes could not become effective until legislation is passed, resulting in a loss of revenues, and a resulting increase in the deficit, for a year or more.

The Nickles amendment appears to be motivated by concerns relating to the tax rate changes for high-income taxpayers in the recently enacted budget legislation. These rate changes were, however, a major issue in the Presidential campaign in 1992. As a result, tax advisors recommended that high-income taxpayers accelerate income into 1992 or defer deductions until later years, and Treasury data indicate that many taxpayers heeded that advice. The changes were officially announced in February of this year by the Administration, with a January 1, 1993 effective date at the time of announcement.

In view of these facts, it would be inaccurate to say that taxpayers did not have fair notice of the changes, which is the essence of legitimate concerns about retroactivity. Nevertheless, the legislation ultimately passed provides that individuals may elect to pay any additional taxes that are due to the rate increases in three annual installments, without interest. We do not believe that this set of events warrants creating new procedural impediments to Senate consideration of tax legislation. Rather, we believe that the Senate should be allowed to consider tax legislation on its merits, including any concerns about retroactivity.

In summary, the Administration believes that the Nickles amendment would unnecessarily limit the Senate's ability to consider legislation in a manner that is consistent with both good policy and fairness to all taxpayers. I urge that it be rejected.

Sincerely,

LLOYD BENTSEN.

The PRESIDING OFFICER. The Senator from Oklahoma has 4 minutes and 25 seconds.

Mr. NICKLES. Mr. President, I take it from the remarks of my colleagues from Maine and New York that they are slightly inclined to vote "no" on this amendment.

Mr. President, I ask unanimous consent that Senator ROTH be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I oppose the retroactive income tax increases that were contained in August's reconciliation package. Earlier this week, I voted to these retroactive increases by cutting overhead in the Federal budget. While that approach failed, I continue to believe these retroactive increases were simply not fair and I will continue to look for ways to address that unfairness.

This amendment requires any future retroactive tax increases to be passed by a three-fifths majority. I have two problems with this approach. First, it does not address the unfairness of the retroactive taxes imposed in August. And second, this amendment fails to recognize that sometimes we need to be able to correct serious loopholes and opportunities for abuse in the Tax Code. To protect the U.S. taxpayer, we need to be able to reach back and close those loopholes as of the day the President or Congress announce their intention to change the tax law, so those who are enjoying the benefits of the loopholes cannot rush to evade the next taxes before Congress actually passes them and the President signs them. This bill would make such reasonable retroactivity as difficult to exact as the unreasonable retroactivity I want to stop.

Once we discover loopholes, or realize we need to make a technical correction in a tax bill, we need the flexibility to remedy these errors. I am fearful that the sponsors of this amendment—without meaning to do so—may make it tougher for us to get at these technical errors or, worse still, loopholes that lead to abuses of the Tax Code.

Mr. President, I am voting against this amendment. However, I continue to hope that we will find a reasonable way to address the unfairness of retroactive tax increases.

Mr. BAUCUS. Mr. President, I rise today in opposition to the amendment offered by Senators NICKLES and SHELBY. On the surface, this amendment has great populist appeal. However, we must look below the surface to what this amendment would actually do.

If enacted, this amendment has the potential to reduce the authority of the Finance Committee and increase the complexity that accompanies any legislation containing changes to the Internal Revenue Code. Further, this amendment proposes a major change to the Senate rules that has no relevance to a bill that extends emergency unemployment benefits for 4 months.

The proponents of this amendment have offered it under the guise that it protects all American taxpayers from the sting of retroactive tax increases. However, the amendment makes no attempt to define such retroactive tax increases and is likely to serve primarily as a protection for wealthy taxpayers benefiting from loopholes uncovered by high-priced tax lawyers and accountants.

This amendment also raises a myriad of administrative issues for Congress, taxpayers, and the IRS. The amendment would effectively make the Parliamentarian the final arbiter of what constitutes a retroactive tax increase. When considered in conjunction with the Budget Act the amendment would further complicate the budget reconciliation and revenue estimation processes. Further, the fate of technical corrections legislation, which is by definition retroactive, would be jeopardized.

Approval of this amendment will add to the difficulties taxpayers have in accurately filing their Federal income tax returns on a timely basis. For example, if the effective date of legislation to repeal a deduction is July 1, in order for such legislation to not be considered a retroactive tax increase, taxpayers would have to split their tax year in two. Taxable income from January 1 to June 30 would have to be calculated with the deduction, and income from July to December 31 without it.

The IRS would have to work closely with the Joint Committee on Taxation

in determining whether a particular change would result in a retroactive tax increase to any taxpayer. In addition, the technical steps necessary to comply with the amendment would compound the difficulties associated with the IRS audit process.

Mr. President, an amendment of this magnitude should be the subject of hearings and extensive debate before a decision is made as to whether it should become a rule of the Senate. Unfortunately, Members of this body have not been given the opportunity to adequately reflect on the consequences of this amendment. I have no choice but to vote against this amendment. I urge my colleagues to do the same.

Mr. NICKLES. Mr. President, I am becoming more concerned about Treasury all the time, and I am becoming more concerned about this Congress all the time because I was not aware that there is such a great effort to pass retroactive tax increases. I would like to think this is not necessary. As a matter of fact, I put in the amendment a definition of what is retroactive. Using some guidance from the Finance Committee, we exclude anything—we define retroactive. If a committee or subcommittee issues a formal notice on the effective date, then it would not be retroactive.

So they can close loopholes, I tell my friend and colleague from Maine. And if there are loopholes, you can close them anyway, because I am sure we can get 60 votes.

Then I hear my colleagues say, well, wait a minute. This is just to benefit the upper 1 percent. I will admit the retroactive tax increases in last year's bill hit primarily upper incomes.

But I will also tell my colleagues, if you have be out in the States, you will find out that it also hits a lot of people that you would not classify as upper income. I am thinking of farmers, ranchers, and others who found that their State taxes went up dramatically as a result of the tax bill we passed this year. We did not get to vote on the retroactive aspects of the estate tax increase. I think that was unfair.

But what about for the future? This amendment is really a fairly reasonable measure. It is not a constitutional amendment. It is not a repealing of retroactivity on past law changes. This is prospective. It says, if we are going to have retroactive tax increases in the future, a point of order may lie against it. It takes 60 votes to waive that point of order. It would still happen if most of us agree that is the right thing to do.

I think that is the right thing to do. We are giving latitude to the committees of jurisdiction. If they issue a notice, they can do so.

What concerns me now is that Treasury is so opposed to this. Are they planning a big retroactive tax increase on America? I do not know where they are coming from. Why would they want to do that? Retroactive tax increases by their nature are unfair. We should not be doing them except under the most unusual circumstances. And we should be voting on it.

So that is the reason this amendment is here. My colleague from Maine said this is just for political points. That is not the case. That is not the case. As a matter of fact, I am interested in seeing this become law and trying to implement whatever we can do to make sure that we would make it more difficult, but not impossible, to pass retroactive tax increases in the future; not to score political points, but to make sure that we make positive public policy in the future that does not lean toward retroactive, unfair tax increases.

Mr. President, I yield the remainder of our time.

The PRESIDING OFFICER (Mr. MATHEWS). All time has been yielded. The question occurs on the amendment of the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nevada [Mr. BRYAN] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Utah [Mr. HATCH] are necessarily absent.

I further announce that the Senator from Kentucky [Mr. MCCONNELL] is absent due to an illness in the family.

I further announce that, if present and voting, the Senator from Minnesota [Mr. DURENBERGER] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 40, nays 56, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—40

Bennett	Faircloth	McCain
Bond	Gorton	Murkowski
Boren	Gramm	Nickles
Brown	Grassley	Pressler
Burns	Gregg	Roth
Chafee	Hatfield	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Cohen	Jeffords	Specter
Coverdell	Kassebaum	Thurmond
Craig	Kempthorne	Wallop
D'Amato	Lott	Warner
Dole	Lugar	
Domenici	Mack	

NAYS—56

Akaka	Ford	Mitchell
Baucus	Glenn	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Heflin	Nunn
Bradley	Hollings	Packwood
Breaux	Inouye	Pell
Bumpers	Johnston	Pryor
Byrd	Kennedy	Reid
Campbell	Kerrey	Riegle
Conrad	Kerry	Robb
Danforth	Kohl	Rockefeller
Daschle	Lautenberg	Sarbanes
DeConcini	Leahy	Sasser
Dodd	Levin	Simon
Dorgan	Lieberman	Stevens
Exon	Mathews	Wellstone
Feingold	Metzenbaum	Wofford
Feinstein	Mikulski	

NOT VOTING—4

Bryan	Hatch
Durenberger	McConnell

So the amendment (No. 1089) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I make the point of order the Senate is not in order.

The PRESIDING OFFICER. Will Senators please take their seats or please take their conversations outside the Chamber?

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the conference report on H.R. 2520, the Interior appropriations bill, which the clerk will report.

The legislative clerk read as follows:

Conference report to accompany H.R. 2520, an act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

The Senate resumed the consideration of the conference report.

CLOTURE MOTION

The PRESIDING OFFICER. There will now be 25 minutes of debate on the motion to invoke cloture with 15 minutes under the control of the Senator from Wyoming [Mr. WALLOP] and 10 minutes under the control of the Senator from Nevada [Mr. REID].

Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. REID. I think it is OK with the Senator from Wyoming and the Senator from New Mexico as to the agreement previously entered to have the time cut to 12 minutes for them and 10 for us.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, I do not object, but I do not accept the clock to begin running until order is in the Senate.

The PRESIDING OFFICER. Will the Senate please be in order? Will Senators please take their seats or take the conversations outside the Chamber.

The Senator from Wyoming.

Mr. WALLOP. Mr. President, I yield 4 minutes to the Senator from Colorado [Mr. CAMPBELL].

The PRESIDING OFFICER. The Senator from Colorado [Mr. CAMPBELL] is recognized.

Mr. CAMPBELL. Mr. President, I thank the Senator from Wyoming.

Mr. WALLOP. Mr. President, may we have order before the clock begins?

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, we have been debating the Interior appropriations bill, and sections that conferees inserted in that bill that many of us believe will dramatically change western economies—with drastic results.

I have reiterated my concerns with setting policy in an appropriations bill, I have told you of my State's Governor's objections to changes in water policy that will impact heavily on the West, and I have told my colleagues how this bill could rob the family farmers in the West of their future.

At this point in the debate, however, I would like to focus on a part of this picture that bodes well for the future of the West. I will be the first to admit that the West is changing. But I will also argue that we must move carefully and thoughtfully to see that those changes are best for the most people.

Mr. President, the Rocky Mountain West still conjures up images that touch the independent spirit and longing for the wide open spaces that burns in all Americans. But the people who live today in the West, and in rural communities throughout our land, are not living the American myth embodied by John Wayne in the old westerns or recalled in haunting western songs accompanied by harmonica.

The life we live is often a struggle that some may not recognize as a modern life. There are thousands of families who are still trying to wrest their livelihoods from the public lands, supporting their families, and building communities in places that can be naturally inhospitable. We aren't complaining, the rewards are many.

We simply want other Americans—from the East, the South and the urban areas of our country—to understand our way of life, a culture that is both glorified and assailed by our fellow citizens. We are trying to maintain that culture and way of life.

We do not want special breaks that other Americans do not get. We do not want to be coddled or subsidized. We simply want to be able to make a living and raise our children—and preserve these special places.

We are not the environmental monsters some would make us out to be. We care about this land—why else would we stay here, when so many have fled economic hardships for the promises of the city?

In fact, in my State of Colorado, the diversity that makes up our rural communities is stunning. Living side-by-side are many new arrivals, who have fled the cities to find a quieter or less hurried lifestyle, and third and fourth generation representatives of pioneer stock.

Those making their living off the public lands today can be running a ski lift, running cows in the high country, or running the rapids. They can be finding valuable ore in a mine seam, finding inspirational scenes to shoot for calendars or finding valuable tourist dollars in a bed-and-breakfast business.

In some places, the diversity we see spells divisiveness. In others, cooperation is replacing conflict. In areas of my State, the newcomers and oldtimers are coming together to preserve the quality of life and the natural resources by which we all—directly or indirectly—sustain ourselves.

Small businesses that earn their living from the tourist trade, cattle ranchers, timber concerns, and tree huggers are really more closely aligned in the 1990's than some of us ever thought they could be. Local environmental groups in forward-thinking communities in my State know that if the ranchers and farmers can not make a go of it, their land will be subdivided for condos and the wide open spaces will become crowded and polluted.

Most of us can agree that if we cut down all the trees, we summarily fell the recreation and tourism trade, but that without modern management of the forests, disease and fire will take what mankind could have put to good use. We know that proper grazing of livestock creates forage for wildlife and that everything depends on a dependable water supply.

We know our city cousins do not really want a rural America devoid of people or filled with ghost towns. We simply ask them to consider our culture and needs as we all strive to preserve the environment and build the economy. These are not necessarily mutually exclusive concepts, and in Colorado, communities are coming together to demonstrate this.

All we ask is that these far-reaching proposals be delayed until we can study them. I am ready to proceed with legislation in the subcommittee I serve on—the Subcommittee on Public Lands, National Parks and Forests to raise grazing fees.

My colleagues will get an opportunity to vote on higher grazing fees, and on sweeping land use reform. After all, this body did approve a bill to reform the mining law of 1872, but with the consent of the Senators whose States will be impacted. Now my constituents want to be heard on how land management reforms will affect them. That's the fair and that's the best way to accomplish these reforms and to integrate what's known as the old West and the new West into the whole West—with respect for the past, ready for the future.

Therefore, I ask that my colleagues continue to support us by voting no on the cloture motion.

Mr. President, I have spoken numerous times in opposition to this conference report and will not belabor it.

I sat in my office this morning trying to think of one final plea in opposition. Perhaps the best words came from one of the Senate's most thoughtful Members himself, and so I have borrowed a few of his words and his considerable logic, if not his vote, in this matter.

Just less than an hour ago in opposing the Nickles point of order, the majority leader of this Senate, a Senator for whom I have great respect and admiration for both his wisdom and leadership, opposed the point of order for the following reasons:

> There were no hearings. There was no debate. There is no definition of terms. It is attempt to seize on a popular issue and score political points. There is no explanation. It creates further ambiguity. It would create numerous administrative problems. It will cause serious problems.

I submit, Mr. President, that we in the West deserve the same standard both procedurally and from the standpoint of basic fairness, and in borrowing the words of the Senator from Maine to support our position, I think that we adequately rest our case.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. WALLOP. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WALLOP. Mr. President, last night the Senator from Nevada repeated his assertion that the concern which every State engineer in the Western States, every attorney general in the Western States, and every western Governor——

Mr. President, may we please have order before the clock runs? It is not fair on an issue of such importance to the West.

The PRESIDING OFFICER. The Senate will be in order.

Mr. WALLOP. Mr. President, last night the Senator from Nevada repeated his assertion that the concern which every State engineer in the Western States, every attorney general in the Western States, and every Western Governor has over the water language in his amendment is simply

ghosts and goblins of an early Halloween. He went on to say that the savings clause in the Federal Land Policy and Management Act should reassure us since it was not being amended and that all he was doing was conforming BLM to the practices of the Forest Service.

Personally, I have more faith in our State engineer and our attorney general and our Governor. Endorsement from environmental groups who have opposed State jurisdiction over water resources doesn't reassure me either. But it is time to lay out how misleading the statements really are. The Senator does not amend the savings clause in FLPMA. That is true. He emasculates it. Neither does his language conform BLM to the Forest Service.

The Forest Service applies to the State for water rights on forest lands for grazing where that is necessary. The Forest Service submits to State jurisdiction and is bound by the terms and conditions attached to the water right permit if granted. The language in this amendment does not require the BLM to apply to the State for water rights nor to comply with the procedural and substantive requirements of State law. The amendment seeks to prohibit the States from issuing any water rights for grazing related activities on public lands except in the name of the United States. There is no such abrogation of State authority in the Forest Service.

Furthermore, the language in the amendment sponsored by the Senator from Nevada does not refer to water rights on public lands, but to water rights for grazing related activities on public lands. As I mentioned yesterday in my remarks, I once had grazing allotments which I supported with water rights on my own private land. Under the amendment proposed by the Senator from Nevada, the State of Wyoming would have been required to issue that water right on private land only in the name of the United States despite the fact that only the owner of the property could apply for the right. That is an unbelievable interference with private property rights and State jurisdiction and is not the policy or the practice of the Forest Service.

If that is not the intent of the Senator from Nevada, then I submit that he has been hoodwinked by whoever drafted this language. Rather than continuing to defend this language, he ought to be outraged. That is the reason why we have authorizing committees, so that we can have hearings and make certain that the language which is reported to the Senate accurately reflects the intent. In seeking to end run the authorizing committee, the Senator simply opened himself up to either sloppy drafting or someone with a different agenda who thought they could slip something through.

I also want to point out that there is a free standing sentence buried at the end of the new section 406(i)(2) which has nothing at all to do with grazing, but which is also at variance with both the Forest Service and BLM policy. That sentence states that the Secretary will exercise rights to water developed on public lands for the benefit of the public lands and the resources thereon. Both the Forest Service and the BLM exercise any State-granted water rights for the purposes and subject to the requirements contained in the water right permit. A water right for grazing may not be used for other purposes. A water right for irrigation may not be used for other purposes. A water right obtained for a reclamation project is subject to the requirements of State law absent a clear congressional directive as the Supreme Court held in US versus California. The sentence has nothing to do with grazing and nothing whatever to do with compliance with State law.

This is the type of language which would have been laughed out of committee when we considered FLPMA. This is the same type of expansive assertion of Federal supremacy which the executive branch, especially the Justice Department, has repeatedly claimed and which the Supreme Court has repeatedly rejected. I do not dispute what the Senator thinks he agreed to. I submit that the language does not do what he says. This is not the policy of the Forest Service nor was it the policy of the BLM prior to 1982. The Senator was hoodwinked. The State engineers are right. The western attorneys general are right. The western Governors are right. His colleagues from Colorado and New Mexico and North Dakota and Oregon and Idaho are right.

Mr. President, these concerns are not goblins and ghosts. They are real. This is not a debate on fees. Senator CAMPBELL and I have legislation pending in the Energy Committee which would raise fees and we are prepared to have that legislation move forward and let the Senate work its will. This debate is over what the language in the amendment by the Senator from Nevada means. This is not a debate over what he intends or what he thinks he agreed to. This is a debate over language cobbled together in a back room which was never subjected to hearings and which was never run past the Governors, attorneys general, State engineers, or the water users and private property owners who will be affected. There is a reason for that and the Holloween analogy is apt. The reason is that like the vampire, this language can not stand the clear light of day. What we need to do is drive a stake through its heart.

So let us hear no more about how all this language does is return the BLM to a pre-1982 policy and conform it to the Forest Service. That is simply false. The western Governors know it, the western attorneys general know it, the State engineers know it, and Secretary Babbitt should know it.

I yield 2 minutes to the Senator from Pennsylvania for the purpose of directing an inquiry to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my colleague from Wyoming.

Mr. President, when this bill was originally before the Senate, I voted in opposition to the position articulated by my colleague, Senator DOMENICI, but I have since been concerned about the provisions included in the conference report.

I have discussed these matters with the distinguished Senator from Nevada [Senator REID] and I have met with the Secretary of the Interior, Secretary Babbitt, in an effort to understand these matters more fully. I have conferred with the distinguished chairman of the Appropriations Committee, Senator BYRD, and understand the concerns that Senator BYRD has on getting a bill. This is his subcommittee, in fact, and I serve on the full committee.

But my questions go to whether the conference report, as I understand it, contains items which were added that have not had hearings, such as improvements to public lands, which, according to the conference report, will be changed to be the sole ownership of the Federal Government. I am concerned as to whether that may constitute a taking by the Federal Government of improvements without compensation.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SPECTER. Further, I raise a question as to whether my understanding is correct that the conference report makes the Federal Government the sole owner of water rights, and in so doing, makes a change to existing law which has provided a preemption of State laws. I question whether the conference report has a change to eliminate the grazing advisory councils, and whether there is a change on restrictions and surcharges on subleases.

The PRESIDING OFFICER. I remind the Senator that his time has expired.

Mr. SPECTER. I ask my colleague for 1 additional minute.

Mr. WALLOP. I yield 1 additional minute.

Mr. President, I ask unanimous consent that the time during which we were trying to establish order in the Senate not be charged against the Senator from Wyoming's time. It is an important thing for those of us in the West, even if the rest of the Senate does not wish to listen.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. I yield 1 additional minute to the Senator from Pennsylvania.

Mr. SPECTER. May I add to the statement by my distinguished colleague from Wyoming that it is an important thing to others, as well.

Mr. WALLOP. It is, indeed.

Mr. SPECTER. At least, that the West is fairly treated.

"I do not have a dog in this race," as Senator Baker used to say, but I want to see that we do it right, and that is why I have taken the time to make the inquiries which I have. I think we owe that to the country.

And I was coming to the last point, that there are restrictions and surcharges on subleases. The significance of these matters warrant thorough consideration by Congress, not just the administration.

I have discussed this with my colleague, Senator REID from Nevada. What I seek to find out, as someone who has to vote on the cloture issue, is whether, in fact, it is true that these changes have been made and whether or not they are substantial matters. When I listened to Senator DOMENICI speak at length on this subject a few weeks ago, I saw his emotional level, suggesting that they were.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. REID. Mr. President, I ask the chairman of the Appropriations Committee, the manager of this bill, if I could have 1 minute to respond.

Mr. BYRD. Absolutely.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I say to my friend from Pennsylvania, the changes made are comparable to the Forest Service; no radical change. The Forest Service has been doing most of these things since the turn of the century.

The chairman of the Appropriations Committee will read a letter that will set forth in some detail what Secretary Babbitt will do with these regulations.

I would also state that the water issue is something that was changed by Secretary Watt. I have a letter dated August 10, 1982, from the—could we have order, Mr. President?

The PRESIDING OFFICER. Could we have order in the Senate? The Senate will be in order.

Mr. REID. The letter is from the State water engineer of the State of Utah, who basically says that he does not understand why Watt changed the rule. He says—and I will make this part of the RECORD—"I would encourage you to maintain the old policy since it would seem to have very little impact on the leases if the Bureau of Land Management was the actual owner of the water right."

In effect, these changes only take it back to the way it used to be prior to Secretary Watt being the Secretary of the Interior.

Mr. WALLOP. Mr. President, I yield myself 30 seconds to say, that is completely untrue. The Forest Service does operate under State law. This will not put the BLM under State law. It completely changes the relationship. And that is the purpose for which hearings should have been held. And the ability to modify it should have been available. They will not be if this were to pass. The States involved will have been severely affected by this.

I yield 2 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. I thank the Senator from Wyoming.

Mr. President, the distinguished Senator from Nevada has been, I think, a thoughtful, sincere advocate in this exchange.

One of the things that he mentioned was to list specifically the provisions of section 701 of the Federal Policy Management Act, indicating that the exemptions and the respect for private property there and the protections against unreasonable elimination of permits would provide protection in certain circumstances.

Mr. President, I wish that were true. I must say that if that were true, we would solve many of the problems, not all of the problems, here.

But, Mr. President, the facts are these: We raised that issue specifically with the Forest Service, and the Forest Service has specifically said that section 701 of FLPMA does not apply. In other words, Mr. President, the arguments raised by those who advocate this new legislation of a dramatic change and say it provides exemptions are ones specifically rejected by this administration.

Mr. President, this is not an idle matter. This affects not just reservoirs, it affects gas lines, oil lines, highways, reservoirs, and it affects them throughout the Nation, whether in West Virginia or in California or in Nevada. It has the potential of shutting down these.

Now some would say, "Surely, no one would come along and shut down reservoirs or vital pipe lines." Mr. President, they are doing it right now to 11,000 families in Colorado.

I ask unanimous consent to have printed in the RECORD at this point a letter that we sent to Secretary Madigan; an article from the Greeley Tribune; a letter from many Democratic and Republican legislators of Colorado on the interim water and State land issues committee; editorials from the Denver Post and Rocky Mountain News; and a letter from a water expert, a legal attorney in Colorado, who has written on this subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 12, 1992.

Hon. EDWARD R. MADIGAN,
Secretary, Department of Agriculture, Washington, DC.

DEAR ED: The Arapaho/Roosevelt National Forest is located in Colorado and Wyoming. Many cities depend upon water diversion, storage, and treatment structure in the Arapaho/Roosevelt National Forest to maintain secure municipal water supplies. These facilities are operated and maintained under Forest Service special use permits issued under the Federal Land Policy and Management Act of 1976 ("FLPMA") or prior federal right-of-way grants. Some of the facilities are quite old and were even constructed prior to the reservation of the National Forest, nearly 100 years ago.

We have been informed that the Forest Supervisor for the Arapaho/Roosevelt National Forest takes the position that the Forest Service has the authority to impose bypass flow requirements as a condition of the renewal of the special use permits or approvals of the maintenance and rehabilitation of municipal water diversion and storage facilities located on the Forest. If implemented, these requirements would result in the loss of the historic yields relied upon by these water providers. This position violates the law, injures vested property rights, destroys established management practices, and would result in the implementation of environmentally damaging alternatives by the cities which would be forced to replace these supplies from other sources.

The Forest Supervisor relies upon the FLPMA and the National Forest Management Act ("NFMA") as authority for the bypass flow program. Neither of these acts, however, compel, or even authorize, the Forest Service to restrict the yield of pre-existing water rights. To the contrary, a primary purpose for the establishment and management of the National Forests, including the Arapaho/Roosevelt National Forest, is to supply western communities with water under state established and administered water rights.

Moreover, the environmental goals of the Forest can be achieved under existing law without taking private property and overturning a century of federal deference to state water allocation and administration systems. Water rights can be obtained for instream purposes under state law, and if additional water is needed, it can be purchased and transferred to instream flow uses.

The water rights held by these cities are critically important. Many western communities store water on the national forests during the spring snow melt for release and use downstream during low flow periods over the remainder of the year. Other communities, because of the location of their service areas, rely on direct diversions from streams which flow through the national forests. Such water management practices actually provide environmental and recreational benefits, rather than impair or destroy fish and wildlife. A cooperative system of water management, for example, in the Upper Poudre River Basin, has evolved since before the turn of the century. The policy of the Arapaho/Roosevelt National Forest should be designed to continue fostering these practices, not to destroy or diminish the value of these important assets.

The value of an acre-foot of developed water in Colorado's Front Range varies from $2,500 to $11,500 per acre-foot of yield, averaging approximately $7,500 an acre-foot. Moreover, many communities have invested millions of dollars in capital facilities such as

pipelines, reservoirs and water treatment plants. These expenditures will be lost or diminished in value, and significant new investment will be required if the bypass flow program is implemented. The Forest Service does not propose to compensate any of the communities for loss of water yield or their capital expenses. The present and future well-being of these communities depends upon continued exercise of their existing rights or, if they are to be deprived of any portion of their water yield, being provided with the necessary funds and governmental approvals required to replace the lost yield and facilities.

We cannot overemphasize the importance of this issue. If the Forest Service is allowed to proceed in this manner, this administration will have taken private property rights, interfered with the development and use of state and interstate water allocations, and replaced state water administration systems with a federal permit system.

In 1984, Mr. Douglas W. MacCleery, Deputy Assistant Secretary of the U.S. Department of Agriculture testified on behalf of the Department of Agriculture regarding the position of the Department on related FLPMA issues. He stated that: "I want to make it clear that there is no intention to jeopardize water rights or other rights held by the permittee at the time of renewal." This position should not be changed. We are certain that neither you nor the President intend such a result, and request that you immediately adopt a policy which confirms that the special use permitting authority of the United States will be exercised in a manner which is consistent with the preservation of private property rights, assists States in the development of important water resources, and does not usurp state primacy over water allocation and administration.

We would like to meet with you to discuss this matter at your earliest convenience after the conclusion of the August recess.

Sincerely,

Malcolm Wallop, Alan Simpson, Hank Brown, Conrad Burns, Orrin Hatch, Pete V. Domenici, Larry E. Craig, Steve Symms, Jake Garn, Wayne Allard, Ben Nighthorse Campbell

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[From the Greeley (CO) Tribune, Oct. 22, 1993]

GREELEY RESERVOIRS A HABITAT HAZARD?

(By Bob Kretschman)

Two of Greeley's high-mountain reservoirs that are subjects of a permit dispute with the federal government adversely affect the habitat of threatened and endangered species in Nebraska, according to a draft study by the U.S. Fish and Wildlife Service.

The wildlife service has issued biological opinions on the environmental effects of seven water projects whose permits to operate in the Arapaho and Roosevelt national forests are up for renewal. Federal officials want to require owners of those permits, including the city of Greeley, to offset the water facilities' adverse effects on wildlife. Permit holders say their projects do not harm wildlife.

Biological opinions by the Fish and Wildlife Service are required by the Endangered Species Act before the permits can be renewed, and the agency has determined in the draft opinions that Barnes Meadow Reservoir and Peterson Lake, two reservoirs owned by the city of Greeley in the upper Cache in Poudre river basin, affect the habitat of endangered species in Nebraska.

However, the city hired an environmental consultant earlier this year to study the reservoirs' effects on wildlife, and the city's studies determined the reservoirs had no effect on streamflow in Nebraska, and John Gauthiere, Greeley's water operations manager.

"It's a long stretch of the imagination that we do have any effect in Nebraska," he said.

Lee Carlson, Colorado field supervisor for the USFWS, said water depletions in the South Platte River basin affect whooping cranes, least ferns, piping plovers, and pallaid sturgeons. The three bird species and one type of fish are dependent on Platte River streamflows, and Greeley's two reservoirs contribute to depletion of the river's water, he said.

Water is lost from Barnes Meadow Reservoir and Peterson Lake, as well as the other five permitted projects, through evaporation and consumptive use. The reservoirs store water during peak flows of the spring, which also creates habitat problems for wildlife in Nebraska, Carlson said.

The opinions issued this week are in draft form and will not be final until the USFWS and the U.S. Forest Service—which will decide in January which conditions to attach to renewal of the permits—attempt to work out differences with permit holders, officials said.

"We'll be working with all the applicants trying to resolve issues," Carlson said.

The draft opinions present two alternatives to reduce what the agency says are adverse impacts of the water projects.

The first alternative is for the permit holders to replace water that is being lost from their projects. Carlson said that in a separate case, a water entity bought water from the Riverside Irrigation District to replace the flow lost by an upstream water project. But he said there may not be enough water available for sale in the lower South Platte basin to replace the water from all seven projects.

Another alternative is for permit holders to provide funding or other support for habitat restoration along the South Platte, and to participate in an organization dedicated to recovery of species in the Platte River basin. Such an organization already exists in the Colomdo River basin, he said, and water users there pay a surcharge on their water use to improve wildlife habitat.

Gauthiere said city officials received the biological studies on Barnes Meadow Reservoir and Peterson Lake Thursday and were beginning to review them.

"These are drafts, and I hope we can have a meaningful negotiation with (the federal agencies)," Gauthiere said. "It looks like they want water."

GENERAL ASSEMBLY,
STATE OF COLORADO,
Denver, October 27, 1993.

Hon. BILL CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: The Interim Committee on Water and State Lands Issues of the General Assembly of Colorado is strongly opposed to the Reid Amendment to the fiscal year 1994 Interior Appropriations bill. Our Committee supports and agrees with Governor Roy Romer, Attorney General Gale Norton, Senator Hank Brown and Senator Ben Nighthorse Campbell, that it is essential that this legislation not proceed in its current form.

The Reid Amendment is not merely an increase in the rate lessees are currently charged by the federal government to graze livestock on public lands. The Reid Amendment is an overhaul of rangeland management and an attempt to overturn state water law without the benefit of public comment.

There is no doubt that the provisions in the Reid Amendment are poorly drafted and subject to incorrect interpretations that would seriously encroach on the water laws of the State of Colorado. The Reid proposal would have the following impacts:

Preempt state law by prohibiting water rights from being obtained for grazing related activities on public lands.

Provide the federal government with a right to control water, a right that under U.S. water law vests the states with the power to create and administer water rights.

Require the Secretary of Interior to develop standards and guidelines that would provide for the restoration and protection of riparian values. This is a major shift from existing law. No current law requires restoration of riparian values.

Limit the exercise of water rights on private lands that are used in "conjunction with grazing-related activities" on public lands.

Given the critical importance of these issues, we believe that it would be irresponsible and undemocratic for the legislation to proceed without any public hearing on the intent of this legislation regarding the water resources of the State of Colorado. The future of our nation depends on the cooperation between state and federal governments. A unilateral and purposely secretive change of important state/federal relations will only increase the public distrust and suspicion of Congress and the Federal government and government in general.

Very truly yours,

Senator Don Ament, Chairman, Interim Committee on Water and State School Lands Issues; Representative Bill Jerke, Vice Chairman, Interim Committee on Water and State School Lands Issues; Senator Tilman Bishop; Senator Tom Blickensderfer; Senator Joan Johnson, Senator Bob Pastore; Senator Linda Powers; Senator Dave Wattenberg, Representative Bob Eisenach; Representative Michelle Lawrence; Representative Jeannie Reeser; Representative Mike Salaz; Representative Bob Shoemaker; Representative Jack Taylor.

[From the Denver Post, Oct. 28, 1993]

GRAZING REFORMS SHOULDN'T TRAMPLE ON WATER RIGHTS

The Clinton administration's plan to tighten the reins on livestock grazing on federal lands has been sidetracked in the Senate by a dispute over its possible effect on water rights.

The disagreement, which has helped stall action on the measure for more than a week, was triggered by a section some Westerners fear could let federal agencies disrupt water flows to locally owned reservoirs or irrigation canals.

As Gov. Roy Romer put it in a letter to Senate leaders this week, the provision "could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well."

Interior Secretary Bruce Babbitt promptly denied that the bill would make any change in traditional water law, and he labeled such concerns a "red herring."

But as the former Arizona governor must recognize this is a morass in which advocates of reform can't afford to get trapped. A similar fight over water language, it's worth noting, delayed passage of the latest Colorado wilderness bill for years.

The provision dealing with water rights on rangelands should be clarified to ensure that it won't upend state-run allocation systems or unduly restrict the operation of water projects unrelated to grazing.

It's important to protect riparian areas along streambeds from damage caused by overgrazing or unwarranted water diversions. But the needs and rights of other water users, including cities that depend on the rivers flowing into and out of federal lands, shouldn't be trampled in the process.

[From the Rocky Mountain News, Oct. 28, 1993]

WASHINGTON'S WATER GRAB

While we have a hard time believing it possible, there may be a few of our readers who remain oblivious to the Clinton administration's tendency to push for greater federal control over the economy. The latest example is its support of legislation that would give Washington far greater authority over Western rivers and water rights.

This water grab is part of the dispute over grazing fee increases, currently being filibustered in the Senate. Water is, quite probably, even more important than the grazing dispute, though grazing fee increases have drawn most of the attention. Perhaps this is not by accident. A Department of the Interior memo, written to Interior Secretary Bruce Babbitt and leaked to the office of Wyoming Sen. Malcolm Wallop, explains why: "We realize you want to use price increases as a straw man to draw attention from management issues"—management issues that include turning elements of current water law on its head.

Not everyone is fooled. On Monday, Gov. Roy Romer joined Rep. Scott McInnis and state Sen. Don Ament in raising concerns about the water grab. Any grazing increases, Romer said, have "got to be pursuant to our water law" in order to gain the governor's support. But according to a detailed study of the legislation by the Denver law firm of Hobbs, Trout & Raley, state control of water will be all but washed away if the legislation passes.

"We have concluded that the bill, if adopted, would constitute a radical departure from the principles of federalism and respect for state water law by imposing a national riparian water law for public lands," lawyers in the firm recently wrote Sens. Hank Brown and Ben Campbell. Among other things, passage of the legislation would give the federal government control over water "which flows into, arises upon, or runs through federally owned lands." In Colorado, where the federal government owns about one-third of the land, the impact would be enormous.

As it now stands, the states determine water allocation laws and the rights created under those laws, which the Clinton administration hopes to pre-empt. The result: a flood of problems for Coloradans.

Hobbs et al. sum up the damage this way: "Water rights holders throughout the West will surely be faced with at least a decade of administrative proceedings and litigation brought by regulatory agencies and the Justice Department to establish federal riparian rights on rivers throughout the West. The citizens, in turn, will be forced to initiate expensive defensive proceedings and litigation to protect their water rights, including takings litigation."

Sen. Ament agrees, noting that the legislation requires Babbitt "to develop standards and guidelines that would provide for the restoration and protection of riparian values. This a major shift from existing law"—and "riparian values" themselves are subject to considerable debate.

The Interior memo also touches on this subject: "Our own statistics can be used to show the range is in better shape than at any point in this century. With that in mind, we must make deliberate and public attempts to prove how bad the conditions are in many riparian zones."

Babbitt says he'll institute "reforms" with or without congressional backing. The administration must be made to realize that belligerence on this issue will cost it support on policies dearer to its heart.

HOBBS, TROUT & RALEY, P.C.,
ATTORNEYS AT LAW,
Denver, CO, October 26, 1993.

Re your letter to Senate Leadership regarding H.R. 2520.

Hon. ROY ROMER,
State Capitol,
Denver, CO.

DEAR GOVERNOR ROMER: Your letter of October 25, 1993, to Senators Mitchell and Dole concerning H.R. 2520 was timely and well-done.

We have reviewed Secretary Babbitt's October 26, 1993, response to you. Taking the Secretary at his word about the intent of the bill, it certainly should be possible and advisable to amend the bill to clarify its intent. Otherwise, I am quite certain that ambiguities in the language will lead to prolonged and expensive controversy and litigation.

Secretary Babbitt cites the savings provision of the Act of October 21, 1976, annotated in the notes to 43 U.S.C. 1701(g), for the proposition that federal-state changes in water law will not be interpreted to occur as a result of H.R. 2520.

However, two prevailing propositions of law can and will be argued to the contrary, in our opinion, if H.R. 2520 is adopted. First, specific provisions control over general provisions. Second, subsequent enactments of Congress can impliedly repeal or amend former Acts of Congress when a conflict in provisions arises.

H.R. 2520 contains specific, heretofore unprecedented amendments to FLPMA which provide that FLPMA permits and leases shall be utilized to restore, maintain and protect riparian values and that the United States shall assert its claims and exercise its rights to all water developed on federal land to benefit the public lands and resources thereon.

The explicit language regarding "riparian values" juxtaposed with "United States * * * claims and rights to water developed on the public lands" is entirely new to FLPMA and Courts will be called upon and required to give it effect. As a long-time practicing water lawyer I cannot counsel the State or any of my clients to contemplate such legislation becoming law in light of very recent experience with how such language—and a lot less specific administrative authority—can be applied in administrative and judicial proceedings.

We have recently encountered in Colorado very costly litigation and demands for water in the name of United States based on much less than the language in H.R. 2520. The recent reserved rights litigation, which the Division 1 Water court decided against the Government, was brought on the theory that "favorable conditions of water flow" in the 1897 Organic Act established reserved channel maintenance flows. The litigation is estimated to have cost citizens of the United States and the State of Colorado approximately $10 million dollars.

Presently, the Forest Service and the Fish and Wildlife Service are utilizing FLPMA and the Endangered Species Act, in the FLPMA renewal process for Greeley, Fort Collins, Boulder, and the Water Supply and Storage Company, to demand the by-pass or release of water from perfected, historically-utilized water rights, as a condition of continued access across Federal lands.

These actions by the Government are 1) freezing in place what was emerging as an active water market in transfer of existing water rights instead of building new water storage projects and 2) critically threaten co-operative efforts between farmers and Colorado Front Range cities to extend the benefit of already-developed water supplies. No agricultural ditch company or city facing the possibility of losing part of its already-developed water yield because of FLPMA requirements is going to part with water it may need for dry years or in the future. Whatever reserve or excess supplies may have gone to the water market are being jealously guarded because of the insecurity being caused by these administrative actions and pending legislation such as H.R. 2520.

It may well be that the rush of drafting these FLPMA amendments led to general or careless language. If the water provisions of H.R. 2520 are intended to apply only to grazing-related activities on the public lands, and State water law and water rights are intended to be protected, amendments to H.R. 2520 are surely in order.

In the meantime, let me tell you that your efforts on behalf of Coloradans and their water rights have been magnificent and, in no way, was your letter to the leadership wrong or ill-advised.

Best regards.

GREGORY J. HOBBS, Jr.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WALLOP. Mr. President, I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. BYRD. Mr. President, I have a letter from the Secretary of the Department of the Interior which I ask unanimous consent to have printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE INTERIOR,
Washington, October 28, 1993.

Hon. ROBERT C. BYRD,
U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: As consideration of the grazing reform compromise adopted by the Conference Committee continues, I would like to clarify certain provisions included in that compromise. These clarifications pertain to four important issues addressed in the legislation: grazing-related water rights; range improvements; subleasing; and prohibited acts.

Water Rights—Opponents of the Conference Committee compromise grossly mischaracterize the provisions relating to water rights. A detailed response is contained in the attached letter to Governor Romer. I would highlight these points: First, the policy change would be prospective only and would not affect existing property rights. Second, it simply aligns the BLM position on this issue with existing Forest Service policy. Third, these provisions affect only range-related water rights on BLM public lands used for grazing. Therefore they

have no application outside the Western public lands states. The language and context of these amendments makes that unmistakably clear; it is simply unreasonable to construe them otherwise.

Range Improvements—New section 406(i) addresses the issue of range improvement ownership. The Conference Committee compromise provides that the United States would have title to all permanent range improvements constructed in the future on public lands. Title to temporary range improvements used primarily for livestock handling or water hauling would be retained by the permittee or lessee. The Conference Committee compromise would not change the agreements currently in effect or affect the ownership of existing range improvements. Here too, in other words, the policy change would be prospective only and would not affect existing property rights. A permittee's interest for contributed funds, labor, and materials would be documented for proper credit in the event the land is disposed of or the permit or lease is subsequently issued to a different party. The proposal is similar to existing Forest Service policy with respect to range improvements. It applies only to range improvements on public lands administered by the BLM for grazing purposes; it does not affect hydroelectric developments, electric power lines, natural gas pipelines, or other permanent improvements unrelated to grazing, nor to improvements on Forest Service lands. Again, the language and context of these amendments makes that unmistakably clear; it is simply unreasonable to construe them otherwise.

Subleasing—New section 406(e) imposes a leasing surcharge for authorized leasing of base property to which public land grazing preference is attached or authorized grazing of livestock owned by persons other than the permittee or lessee. I will construe this provision to recognize and leave unchanged the current Bureau of Land Management practice which allows subleasing to family members when they are operating within the family operation or are assuming control of the family operation.

Prohibited Acts—New section 406(1) requires the Secretary to promulgate regulations to make violation of the Wild Horse and Burro Act, the Endangered Species Act, and federal and state laws concerning "conservation, protection of natural or cultural resources, and protection of environmental quality" prohibited acts. Upon expiration of appeal or review periods following a conviction for violation or administrative finding of violation of these laws, the authorized officer may consider cancellation or suspension of the permits or leases where the violation has occurred on public land or is related to authorized grazing of public land. The proposal would adopt language that existed in the BLM's regulations prior to 1984, and is compatible with existing Forest Service policy. It deserves emphasis that the Conference Committee compromise ensures that no suspension or cancellation of a permit or lease can occur until there has been a full opportunity for appeal of the finding of a violation or a conviction. Finally, convictions and violations unrelated to these environmental and land use issues are not "prohibited acts" as used in the statute.

It also seems appropriate to clarify the Department's intentions with regard to public hearings on the new regulations required by the grazing reforms contained in the Conference Committee compromise legislation. The Department is committed to conducting public hearings in every Western grazing state prior to the implementation of any regulations. Moreover, the Department would welcome the opportunity to participate in any Congressional oversight hearings reviewing the Department's implementation of the grazing reform provisions of the compromise.

Finally, as I discussed with Senator Hatfield yesterday morning, most of the administrative authority which the Department has over grazing is entirely outside of, and unaffected by, the Conference Committee compromise. For example, the promulgation of standards and guidelines which govern stocking numbers, length of grazing seasons, use of riparian areas and the like, is a matter still within my administrative discretion with regard to which I remain ready and willing to discuss and negotiate with interested Senators. Likewise, the role of grazing permittees in the all important Resource Advisory Councils is a matter that I am ready and willing to discuss at any time.

I hope these clarifications regarding the Department's interpretation and intention with respect to implementing these provisions are of assistance in the Senate's consideration of the Conference Committee's grazing reform compromise. So there is no misunderstanding, I want to make clear that my interpretation of these provisions does not in any way bind my decisions regarding the Rangeland Reform '94 rulemaking which the Department would proceed to undertake should Congress decline to enact the grazing reform compromise.

Sincerely,

BRUCE BABBITT.

THE SECRETARY OF THE INTERIOR,
Washington, October 26, 1993.

Hon. ROY ROMER,
Governor, State of Colorado, Denver, CO.

DEAR GOVERNOR ROMER: In your letter dated yesterday to Senators Mitchell and Dole you express particular concerns about certain provisions of Senator Reid's compromise public lands grazing reform (the Reid compromise) being debated as part of the FY 1994 Interior Appropriations bill. I must respectfully disagree with your characterization that these provisions would "inject such ambiguity and confusion into the process for allocating water in the West that litigation and uncertainty would prevail for years to come."

My staff and I have carefully examined the provisions in question. In my judgment as a former Western State Attorney General, Governor, and private practitioner in water law, these charges simply cannot be sustained. Those parts of the Reid compromise that relate to water are in fact in the mainstream of water law as applied in the western states.

For example, nothing in new section 406(d) changes the traditional practice of acquiring water rights for livestock grazing on public lands under state law. It only ensures that, subject to valid existing rights, such water rights be obtained in the name of the United States. This has long been the practice on the national forests, as well as state law in many western states, including my home state, one of the most arid in the country.

Your letter expresses specific concern that the Reid compromise "could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well." Apparently you are referring to language in the last sentence of section 406(i)(2). But this sentence does not address federal/state relations in water law. It simply confirms the common sense principle that federal claims and rights to water "developed on public lands [shall be exercised] to benefit the public lands and resources thereon." Moreover, the sentence is part of a subsection addressing grazing-related water rights; more specifically, cooperative range improvement agreements. (It is captioned "Range Improvement Ownership.") There is simply no way a court could read this innocuous language to create broad new categories of federal water rights, whether for grazing or non-grazing purposes, in denigration of state water law.

You have also raised concerns about section 406(o), which directs the development of standards and guidelines that "establish minimum conditions for the protection of rangeland ecological health," and which shall include, among other things, "restoration and protection of riparian values, such as healthy wildlife and fish habitat and diverse vegetation." Nothing in this section addresses water rights or state-federal relationships in the area of water; rather, it merely furnishes direction for the Department in the implementation of existing law. That law (the Federal Land Policy and Management Act, or FLPMA) has for nearly two decades required BLM lands to be managed for "multiple use" and "sustained yield," and defines these terms to require accounting for, among other things, "the long-term needs of future generations for renewable and nonrenewable resources, including recreation * * * watershed, wildlife and fish, and natural scenic [and] scientific * * * values." 43 U.S.C. 1702(c).

Each of the provisions is the Reid compromise about which you have concerns is an amendment of FLPMA. That Act's general disclaimer on water rights (Section 701 (g), 43 U.S.C. 1701 Note) remains intact. No court has ever interpreted FLPMA as changing state-federal relations in water law. The experience under it has been exactly the contrary.

You have my assurance that the Department of the Interior will, if these provisions are enacted into law, interpret and apply them in conformance with their intent—not to make drastic changes in state-federal relations in water law, but rather to ensure that water rights obtained under state law for grazing-related purposes on public lands serve federal grazing-related needs, and that the ecological health of federal rangelands is secured.

As a native Westerner I know the sensitivity of water rights issues and the legitimacy of states' concerns that their water law systems be protected. I also know a red herring when I see one. The attempt to portray the water provisions of the Reid compromise as a massive federal water grab is just that. I hope this clarifies the matter.

Sincerely,

BRUCE BABBITT.

Mr. BYRD. Mr. President, at the moment, I will read only three sentences therefrom. Two sentences deal with water rights.

Opponents of the Conference Committee compromise grossly mischaracterize the provisions relating to water rights. A detailed response is contained in the attached letter to Governor Romer.

Another sentence from the Secretary's letter:

The department is committed to conducting public hearings in every Western grazing State prior to the implementation of any regulations.

Mr. President, there has been much discussion about this grazing issue and

what will happen with the Interior appropriations conference report. This issue has consumed a great deal of the Senate's time already. I know this issue is important to many people in the West. However, we have to move forward and let the Senate work its will on this bill.

The way to do this is to invoke cloture and allow the Senate to vote on the conference report and then turn to the amendments in disagreement. Any Senator has the opportunity to offer an amendment to an amendment in disagreement if he or she desires to do so. What do the opponents fear in allowing the Senate to work its will?

Is it that they fear they do not have the votes? Mr. President, I think the answer is clear. The opponents of this proposal do not know what they want. They know what they do not want—they do not want any change. But what do they want? I have heard a lot of talk about compromise, but no specific proposal has been offered. Continuation of the moratorium is no compromise.

It has been suggested that the Secretary of the Interior or the Members who support the compromise reached in conference are unwilling to negotiate or further compromise. This is simply not the case. Let us review the facts—Secretary Babbitt announced his proposed fee increase and range management reforms in early August. That was nearly 3 months ago. The proposal contained in this conference agreement represents a compromise from that position—it involves a lower fee and proposes fewer reforms than initially proposed by Secretary Babbitt. So, it seems to me that Mr. Babbitt has compromised. I repeat—the proposal in the conference agreement contains a lower fee and fewer range reforms than originally proposed by the Secretary. How can one suggest that this is not compromise?

Mr. President, the responsibility is on the Senate to act on this issue and move this appropriations bill forward. Continuing the current stalemate does not help to resolve this issue. If the Senate desires further compromise, it should consider a proposal and vote on it. The solution to this issue may be to remove everything having to do with grazing from this bill—just take it all out. That means no fee increase. It means no range management reforms. But it also means no moratorium. I repeat—no moratorium, no fee, no reform. This would leave the issue subject to current law, and allow Secretary Babbitt to proceed with the higher fee and greater reforms he proposed back in August. Is this what Senators want? Those are the choices as I see them. We have to finish this bill. This issue has consumed time on the Interior appropriations bill every year since 1976, and I am sick and tired of it. Why does this have to be on an appropriations bill? Why does the authorizing committee, on which these western Senators sit—why does it not act? This subject confronts us on this Interior appropriations bill every year.

The time has come to put this to an end.

On Tuesday, I discussed several possible scenarios that could affect the Interior bill agencies if the Senate perpetuates this stalemate and refuses to invoke cloture on this conference report. I did not advocate any one of those alternatives. I am not interested in shutting down these agencies. I am not interested in freezing their operations at the fiscal year 1993 level for an entire year. I am interested in approving this conference report and getting on with the amendments in disagreement; these agencies need to receive the funding recommended in this conference report.

My point is simply this—if the Senate fails to take action on this conference report, some decisions will have to be made affecting these 40 agencies. Those decisions will have to be made by the House, the Senate, and the President. Will there be a shutdown? Will there be another short-term continuing resolution? Will there be a full-year CR for the Interior agencies that would maintain the fiscal year 1993 level? The way to avoid these choices is to invoke cloture, or at least agree to vote on the conference report, and then go to the amendments in disagreement. If we do not move forward today, I am not prepared to continue to engage the Senate's time on this issue.

There have been inferences made by certain Senators that I have somehow threatened their projects or programs by my statements that a full-year continuing resolution at the 1993 levels could be required if we cannot get over this impasse on grazing fees.

I did not threaten anyone. I did not state any threats. I stated facts. And they are not the only Senators, those Senators whom I mentioned, or rather whose projects and programs I mentioned—we all will suffer, including this Senator. But I am not willing to continue down this road.

I am not cowed by the comments of those Senators. In fact, let me make another possibility clear. If we cannot overcome this impasse and if this bill is recommitted to conference, I can assure all Senators that I have no control over the position of the House conferees regarding not just the grazing fee issue but also every item in the conference. What I am saying is that it could well be that the House conferees may take the position, if that happens, that we start all over, all over with a clean bill, and renegotiate every amendment that is in the conference report—we just wipe everything clean, start all over again.

I have worked to include items in this conference report for other Senators on both sides of the aisle.

Anyone may take that statement as a threat, if anyone wants to. That would jeopardize every item that was successfully included in the conference agreement at the request of Senators.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. REID. I ask unanimous consent the time be extended for the Senator from West Virginia, and the other side, an additional 3 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Mr. President, as I say, anyone may take my statement as a threat if anyone wants to, but I can assure Senators that this is a distinct possibility, and could occur if we are required to reconference this bill.

I am not going to ask for another vote on cloture after today unless something breaks, or until the last day set forth in a continuing resolution. I am not interested in taking this Senate's time every 2 days on another cloture vote. So if we do not get cloture today, unless something breaks, as far as I am concerned, we will not have another cloture vote. We will not take up the time of the Senate with another cloture vote until the last day of the continuing resolution.

I have about had it up to my ears. All the years I have been chairman of this Interior appropriations subcommittee, we have had this, this item of grazing fees; in one way or another—on many occasions, it had to be dropped—since 1976. These Senators who are opposing this conference report, many of them sit on the authorizing committee. That is where the action ought to be taken. We hear so many complaints about the Appropriations Committee taking over the work of the authorizing committees. And here is one reason why. Here we have grazing fees stuck on this bill every year. I am tired of it. Let us settle it once and for all.

So if some Senators do not want to vote for cloture today, there will not be another opportunity until the last day of the continuing resolution, unless something breaks in the meantime. It seems to me that the Secretary has gone a long way toward compromise. Senator REID has been a very diligent member of the committee. He does much of the work on the whole bill in the committee. He holds many of the hearings at my request. He is an honorable man; he has done his best; he has been fair. And I hope that Senators will sober up.

I do not expect this cloture motion to be invoked today, but I will say to Senators, you are not going to have another chance until the last day of the continuing resolution. And if it is not invoked, then I will not ask for cloture until the last day of the final CR. So

we had better get busy, There has to be some give.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I yield the remainder of the time to the control of the Senator from New Mexico [Mr. DOMENICI].

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I yield to Senator BURNS 30 seconds to address the issue.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I rise today to present my thoughts on the proposal by the administration to raise grazing fees and change the policy for managing the public lands. The focus has been on grazing fees instead of changing policy and principles for public land management.

The proposed increase in grazing fees are the tip of the iceberg. Fee increases are proposed for hardrock mining, timber, recreation, and irrigation. I have not figured out how anyone can justify raising public land user fees in order to balance the budget. The numbers just do not add up.

The administration expects to raise $82 million by raising grazing fees. At the same time, operating expenses have more than doubled, and an $800 million per year industry in my State of Montana is brought to their knees. The current tax base is killed. I believe someone with some experience needs to think this out.

The same philosophy holds true for the timber and mining industries. In Montana, we have several billion board feet of manageable timber in the timber base. This is timber located on acreage suitable for management. Millions of dollars are being thrown away because the Federal Government is incapable of managing commodities for the benefit to the schools, tax base, Government amenities, and people.

Mining is essential to the economy of Montana. The industry employs about 3,500 people in Montana alone, with a payroll of about $150 million annually. About $29 million in taxes are paid annually by mines and their employees. Over $574 million was generated in Montana in 1990.

Nearly 5,000 ranches will be placed to economic risk if we go forth with drastic public land management changes. Rural America will be severely eroded as the tax base is destroyed.

In 1992, the Secretaries of Interior and Agriculture reported to Congress in "Grazing Fee Review and Evaluation: Update of the 1986 Final Report," that their costs for administering the grazing programs were $2.18 and $2.40 per AUM. The weighted average is $2.26 per AUM.

The Reid-Babbitt compromise would codify a fee 53 percent higher than the reported cost of administration. Using the Secretary of Interior's own data, the $3.45 grazing fees would exceed the full costs of the entire multiple use programs by 23 cents per AUM. Thus, the rancher would subsidize all the other users, like wildlife, of Federal lands.

A 1993 scientific report to the BLM and Secretary of the Interior, "The Federal Grazing Fee: 1993," on test plots for nutrients and grass availability in Wyoming, Idaho, and New Mexico, indicated that the average value of Federal forage was about 13 cents per AUM. The Federal forage fee that year was $1.92, or $1.79 per AUM more than the grass was worth. Why? Because there was no alternative.

State and private fees aside, Federal lands are not as productive as State and private lands. If the U.S. Forest Service and BLM are trying to charge for trespass, user fees, stewardship, a method should be devised to be fair and honest to denote cost equalization. Even then, the grazing fee for an AUM would be about $0.89 per AUM.

This issue is increasingly complicated. In fact, cost comparisons for U.S. Forest Service allotments for sheep indicate negative forage values. In many cases, ranchers are paying more for public grazing leases because they have no alternative. Public land ranchers are paying full market value for grazing public lands when higher nonfee grazing costs and investments in leases on the public lands are considered.

RECOGNITION OF CORRESPONDENCE SUPPORTING WESTERN SENATORS DEBATING H.R. 2520

Mr. BURNS. Mr. President, I rise today to request unanimous consent to include in the RECORD, the report on file in numerous western Senators' and the Secretaries of the Interior and Agriculture offices entitled "Report to Congress and to the Secretaries of Interior and Agriculture, A Comparative Analysis of the Economic, Financial, and Competitive Conditions of Montana Ranches Using Federal Forage and Montana Ranches Without Federal Grazing Allotments, Pepperdine University, July, 1993."

In addition, I request unanimous consent to include for the RECORD, a reference to the files in my office containing the compilation of letters from individuals, State organizations, banks, and other pertinent correspondence of interest parties supporting the position of the western Senators in opposing the Reid-Babbitt grazing reform proposal.

The theme of these documents, representing hundreds of thousands of people in the West, is an acute opposition, deep concern, and fear that the Federal Government is succeeding in taking water rights, range improvements, and private property from the people of the West.

From all appearance, the livelihood of western America is on the line and folks are ready to make a stand for what they believe in. This information is requested to be part of the RECORD and I thank you.

Mr. DOMENICI. How much time does the Senator from New Mexico have?

The PRESIDING OFFICER. The Senator from New Mexico has 4 minutes and 40 seconds.

Mr. DOMENICI. Mr. President, let me remind my good friend from West Virginia, he said get busy; there has to be some give. That is exactly what I say. I am sure when he gets up in rebuttal he will say "over there," on our side.

The point is, we do not have any place to give or anybody that is receptive to anything that we might give.

I want the Senate to know that yesterday afternoon, five of us—two from the Democratic side, three from our side—had a meeting set with the Secretary to talk about getting busy and giving, and guess what happened? The Secretary canceled it. He said there is nothing to talk about.

There is something to talk about, and it is very, very simple. What do we want, said my good friend from West Virginia. We want simple fairness. We want 1 year to have hearings on matters of grave import to thousands of our constituents on subjects that there have been no hearings on.

If we are accused of gridlock, let me suggest that the only issue we have had in years past are grazing fees. My friend from West Virginia says it comes up every year. There have not been issues on water rights, who owns them; improvements, who owns them; what are your rights on appeal; what will it do to the family ownership of a ranch. They have not been before anyone yet, and they are pushed right into an appropriations bill.

I could say to my good friend from West Virginia, what are they doing in an appropriations bill? They do not belong there. It denies the people of the West a hearing. To say the Secretary is going to have hearings is to deny us an opportunity to write some law that might be reasonable on the subject.

Do we think we should turn over the destiny of our people to the Secretary of the Interior? I think he is a nice man. He has a great academic background. I think he went to Notre Dame. That means he is pretty good, I guess—and he is. But I am not willing to say, "It is in your hands, Mr. Secretary." I will tell you that for sure.

Now who is stonewalling? Some people say we are stonewalling. We cannot do any better than to say we will sit down with the Secretary, we will sit down with Senator BYRD, we will sit down with HARRY REID, but not—not—with a gun that says, "It is our way or no way."

What kind of negotiating is that? What kind of fairness is that? For those who wonder about filibuster and here we are pushing Interior right to the wall, let me say to anybody listening, we do not have any other way to

do it. This happens to be the system. We are operating under the rules.

My friend, the chairman of the Appropriations Committee, has said, "Operate within the rules," and he said, "I compliment you when you are operating within the rules." We are. We have no other way to get fairness and justice for our people, and if we have to stay here another 5 or 6 days, somebody is going to give and it is not going to be just us. How about some give on the other side?

I understand the House is saying the President supports our position full speed ahead, as they debate a continuing resolution. So I say, it is going to be us against them, and if we lose, we are going to go down with every rule of this Senate having been used by us to protect our people. Nothing less is right. And I know there are a lot of people wondering about the Interior appropriations items. I am worried about them, too. But I am more worried about determining, once and for all, in a bill that has had no hearings, the destiny of the ranchers of the West, their families and rural communities across this land. That is it.

If anybody wonders whether it is complicated, who is doing what to whom, I cannot make it any clearer. Nineteen pages of new law in an appropriations bill. There are not three members of that committee who voted who know what is in it, know what it does—and I compliment them all for being very dedicated Senators—but they do not know because this deal was not made in that committee. This deal was made with the Secretary of the Interior, who now cannot deal with us. His staff wrote all this. We saw three different versions. This was not prepared in a last-minute little effort on an appropriations bill.

So I say our message is very simple.

I yield the floor and stand on simple justice and fairness.

Mr. BYRD. How much time do I have?

The PRESIDING OFFICER. Senator BYRD has 19 seconds.

Mr. BYRD. How much time?

The PRESIDING OFFICER. Nineteen seconds.

Mr. BUMPERS. Will the Senator yield that 19 seconds to me?

Mr. BYRD. Yes, I yield.

Mr. BUMPERS. I would like to say to the Senator from New Mexico, how about fairness and justice for the other 250 million taxpayers of this country?

Mr. BYRD. Mr. President, I ask unanimous consent for 1 minute additional on each side.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, what started this? The Senator from New Mexico knows I have the greatest of respect for him. He was behind the moratorium. That is what started it. That opened the door, and the House has amended his moratorium amendment.

Now, the distinguished Senator from New Mexico may break all the desks here, if he wishes, and bruise his knuckles; it does not intimidate anybody that I know of. The Senator was behind the moratorium. Let us wipe it all off, all of it. Take out the moratorium, too. But we need to get the amendments in disagreement.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, in answer to my friend, Senator BUMPERS, the taxpayers of the country will lose more money. While they pick up $19 million in fees, the taxes collected by the American Government will go down more than that and we come out with the taxpayers losing.

Second, with reference to the moratorium, it is one thing to have one line in the bill that says you have a year to debate, have hearings and another to come back with 19 pages of new law written into this bill. I think they are very different. I started what I thought was fair. We end up with absolute unfairness and unwillingness to move even 1 inch.

Mr. HATCH. Mr. President, I, along with many of my colleagues, have already addressed the many respects in which the Reid-Babbitt compromise is unfair and is bad policy. I would now like to focus briefly on some of the serious constitutional defects in the amendment—specifically, the problems raised under the takings clause and the due process clause of the fifth amendment.

Let me begin with the fact that range rights owned by ranchers—including water rights, grazing rights, and rights in improvements—clearly constitute property for purposes of the fifth amendment. Among other things, these rights are transferable by the same deed that transfers a rancher's private land and improvements; they are subject to an estate tax; and the military, when it takes a Federal range for military use, is required to pay the ranchers for their interest in the Federal range. [Hage, Storm Over Rangelands, at 4.]

Now let me address some of the ways in which the Reid-Babbitt language tramples these property rights:

Section 406(d) fails to protect existing water rights recognized under State law. That section provides: "Subject to valid water rights existing on the date of enactment, no water rights shall be obtained for grazing-related actions on public lands except in the name of the United States." The problem with this sentence is that the phrase "valid water rights" is not defined with respect to applicable State law. Thus, a Federal agency could make a Federal validity determination under which water rights recognized under State law would not be "valid" under section 406(d). The consequence would be the unconstitutional taking by extinction, without just compensation, of the private property in water rights.

This section also raises a serious 10th amendment issue. Under the Desert Land Act, Congress severed water from the Federal lands and vested plenary justification in the several States. The constitutions of several Western States claim the ownership of all water and those provisions were confirmed as a part of their Admissions Acts. The adoption of a Federal validity determination in subsection (d) would place an impermissible test on property rights created and vested solely by reference to State law. The assertion of a Federal claim and right to exercise water rights contained in subsection (i)(2) under these circumstances violates the 10th amendment.

Under section 406(i)(1), an owner of existing range improvements would not even be able to use or maintain these improvements—much less modify them or install new ones—without obtaining a permit from the Federal Government. Moreover, whether or not to issue the permit would rest entirely in the arbitrary and unguided discretion of a bureaucrat. This provision is doubly offensive to the Constitution. At the very core of the right to property are the rights to use that property and to maintain it? What does it mean to possess property if you cannot use it? Section 406(i)(1) would take away these vested property rights, and would do so without providing compensation. This would clearly be an unconstitutional taking.

Section 406(i)(1) would also violate the fifth amendment requirement that Government not take property without due process of law. Due process requires that a property owner have clear notice of the procedures and standards to which his property will be subjected. Section 406(i)(1) provides no notice whatsoever. It vests completely unconstrained and standardless discretion in a bureaucrat to deny a person all use of his or her property in range improvements.

The mandatory qualifications for renewing a grazing permit or lease are also unconstitutionally vague. Under section 406(j)(2), any applicant "must be determined by the authorizing officer"—the Government bureaucrat—"to have a satisfactory record of performance." What does the phrase "satisfactory record of performance" mean? What does it even refer to? It is clear from section 406(j) that the phrase means something other than, and in addition to, compliance with the terms and conditions of the existing permit or lease, since subsection 406(j)(3) separately makes such compliance a mandatory qualification. Here again, the Reid-Babbitt compromise would simply place completely arbitrary and

unguided discretion in the hands of a bureaucrat, and would subject the rights of ranchers to this arbitrary discretion. This is a mockery of due process.

As these examples illustrate, the Reid amendment/Babbitt compromise would trample the legitimate constitutional rights of ranchers. For these reasons, and for the policy reasons that I and others have already voiced, I continue to oppose adoption of the Reid-Babbitt language to the Interior appropriations bill and urge my colleagues not to invoke cloture.

The PRESIDING OFFICER. Without objection, all time will be considered as having been yielded back.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report accompanying H.R. 2520, the Interior appropriations bill, 1993:

Patty Murray, Dianne Feinstein, Harry Reid, Harris Wofford, D. Inouye, Wendell Ford, Carol Moseley-Braun, Russell D. Feingold, Dale Bumpers, Robert C. Byrd, Claiborne Pell, Edward M. Kennedy, Paul Simon, Barbara Boxer, Howard Metzenbaum, Harlan Mathews.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the conference report accompanying H.R. 2520, the Interior appropriations bill, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

I further announce that the Senator from Kentucky [Mr. MCCONNELL] is absent due to an illness in the family.

The PRESIDING OFFICER (Mr. CAMPBELL). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 44, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—54

Akaka	Glenn	Mitchell
Biden	Graham	Moseley-Braun
Boren	Harkin	Moynihan
Boxer	Heflin	Murray
Bradley	Hollings	Nunn
Breaux	Inouye	Pell
Bryan	Johnston	Pryor
Bumpers	Kennedy	Reid
Byrd	Kerrey	Riegle
Chafee	Kerry	Robb
Cohen	Kohl	Rockefeller
Daschle	Lautenberg	Roth
DeConcini	Leahy	Sarbanes
Dodd	Levin	Sasser
Exon	Lieberman	Shelby
Feingold	Mathews	Simon
Feinstein	Metzenbaum	Wellstone
Ford	Mikulski	Wofford

NAYS—44

Baucus	Domenici	Lugar
Bennett	Dorgan	Mack
Bingaman	Faircloth	McCain
Bond	Gorton	Murkowski
Brown	Gramm	Nickles
Burns	Grassley	Packwood
Campbell	Gregg	Pressler
Coats	Hatch	Simpson
Cochran	Hatfield	Smith
Conrad	Helms	Specter
Coverdell	Hutchison	Stevens
Craig	Jeffords	Thurmond
D'Amato	Kassebaum	Wallop
Danforth	Kempthorne	Warner
Dole	Lott	

NOT VOTING—2

Durenberger	McConnell

The PRESIDING OFFICER. On this vote, the yeas are 54, and the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. PRYOR] is recognized.

Mr. PRYOR. Mr. President, may I inquire? What is the pending business before the Senate?

The PRESIDING OFFICER. The pending bill is H.R. 3167, the Unemployment Compensation Amendments of 1993.

NAFTA: GOOD FOR ARKANSAS, GOOD FOR AMERICA

Mr. PRYOR. Mr. President, not seeing the managers of the pending business in the Senate Chamber at the moment, it gives me great pleasure to rise and announce my support for a plan to keep America ahead in a world undergoing monumental change.

Today we see mind-boggling change in technology, strategic change in Government and industry, and extraordinary political change in foreign capitals all over the world.

The times we live in are very uncertain. They are even frightening. And I think America now has two choices: We can lead and benefit from world change, or we can hold back and lose as change passes us by.

Nowhere, I think, Mr. President, is that choice more clear than in international trade. And nowhere is the choice on trade more clear than in the North American Free-Trade Agreement, or NAFTA.

Mr. President, I have heard from hundreds of Arkansans from all walks of life about NAFTA. I have studied it as it impacts Arkansas and American business, and as it impacts Arkansas and American farmers.

As a supporter of American workers, as an advocate for a cleaner environment, and as one who has fought against unfair foreign trade practices, I today announce my support for this agreement.

My conclusion is that NAFTA on the whole is good for our State. It is good for our country. I believe NAFTA will create thousands of jobs in the long run. It will open vast markets to farmers and to businesses. And it will allow America to be more competitive in the global economy.

Accordingly, I intend to vigorously support NAFTA.

Let me say that NAFTA is not perfect. I believe NAFTA, as negotiated by the previous administration, did not go far enough on labor and environmental issues. The current White House negotiated with the Mexicans and the Canadians and got significant further protections for the environment and the American workers.

These so-called supplemental agreements on labor and environment are major factors in my support for NAFTA.

Also, Mr. President, I believe that while NAFTA will cause an overall increase in American jobs, there may be and could be a net loss of jobs in certain companies or localities, especially in the short run. I think we should discuss and face that fact.

For these dislocated workers, Labor Secretary Reich has put forward a comprehensive safety net program that keys off of the proven unemployed worker programs.

Ultimately, what has convinced me of NAFTA's worth at this time are the comments and the analysis I have received from and about the State of Arkansas.

Yes, there are those in our State who oppose NAFTA, but I think today a majority of—if I am not mistaken—of the many letters and comments that I have received in recent weeks have basically supported the agreement.

There are some real life examples of Arkansans who will benefit from NAFTA. Let us take the 600 employees in Rogers, AR, and the employees of the Daisy Manufacturing Corp. Their main product is the world famous Daisy air rifle—the BB gun. It is far superior to and price competitive with any air rifle made in Mexico. However,

according to the Daisy people, the company currently sells nothing directly to Mexico due to market access problems.

Mexico is Daisy's biggest potential market, but it is off limits today for this particular company.

Under NAFTA, Daisy should be able to pursue that market aggressively, and it expects significant new sales. That should mean jobs and growth in Rogers, AR.

Next, take the case of the Arkansas rice farmers. Currently, rice exports to Mexico from the United States are hit by a 20-percent tariff on milled rice and a 10-percent tariff on rough rice. With NAFTA, these tariffs will be phased out over a 10-year period.

Last year alone, the United States exported an amazing 200,000 metric tons of rice to Mexico. Clearly, Mexicans recognize the quality of this rice, 40 percent of which is grown in our home State of Arkansas—a plus for America and Arkansas rice farmers.

Eliminate that 10 to 20 percent import duty on American rice, and it is not hard to see how American rice farmers will benefit from the level playing field between them and Mexico's 87 million consumers.

What about poultry, Mr. President? This is a major Arkansas product. Currently it gets a 20 percent import duty in Mexico. Let me repeat: On all of our poultry shipped to Mexico, there is a 20 percent duty imposed. NAFTA would totally eliminate that Mexican poultry tariff, opening the gates for the high-quality, efficient American poultry industry to penetrate the large Mexican market. That will mean jobs for Americans and economic stimulation and growth in our State of Arkansas.

In fact, Mr. President, almost all of the major agriculture commodity groups in our State of Arkansas have now endorsed this trade agreement.

A somewhat different example is the Arkansas retail giant which is based in Arkansas known as Wal-Mart. Given the chance, Wal-Mart can out-compete just about anyone. They have shown that in the past. But in Mexico, duties on United States goods that are generally 2½ times that of United States duties on Mexican products, and other Mexican trade barriers, stifle Wal-Mart's southward expansion.

I assume that the aggressive businessmen and women of Wal-Mart will take advantage of an open Mexican economy if NAFTA is agreed to. That means jobs for Wal-Mart workers and economic growth for Wal-Mart and its hundreds and thousands of American suppliers, not only all across the United States but across the world.

The stories of Arkansas employers and employees who say NAFTA will help them and benefit our State are numerous, impressive and, I add, they are persuasive. I am persuaded now that our State of Arkansas will eventually become a major winner as a result of the passage of the NAFTA agreement.

I am encouraged also as to environmental concerns, by the recent endorsements of NAFTA by such well-known environmental groups as the Audubon Society, the National Wildlife Federation, the World Wildlife Federation, and the Environmental Defense Fund.

Finally, I want to refute two very misleading things being said today about Arkansans, about NAFTA. The first says that NAFTA will allow unlicensed Mexican truck drivers to drive our highways in old, unsafe truck rigs that do not meet United States safety standards. Nothing could be further from the truth.

Under NAFTA, all Mexican and Canadian trucks and truckers will continue to be required to comply with all United States safety and environmental standards.

The second red herring says that NAFTA will permit poorly trained Mexican medical personnel to invade the American health care system.

Again, Mr. President, this is totally wrong. It is false. There is no truth to it. Under NAFTA, Mexican doctors, or any professional for that matter, must be licensed in and observe the standards of whatever State they seek to practice in. In addition, all Mexican professionals must obtain the appropriate United States visa before they enter the United States.

Mr. President, these are what I call scare tactic arguments against NAFTA that can lower the debate to the level of a brawl, based upon emotions and fear, rather than a thoughtful deliberation based upon fact and clear thinking. I hope that in the coming weeks, our NAFTA debate in the U.S. Senate, and in the House of Representatives, will rise to a level befitting a subject of such great national import.

I want to state my strong support for NAFTA. I think it is right for my home State; I think it is right for America, and I think it is right for the changing times that we face throughout the world.

Finally, I ask unanimous consent that a document entitled "Arkansas NAFTA Facts" and a list of several Arkansas organizations and companies that support NAFTA be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARKANSAS NAFTA FACTS

JOBS

Arkansas jobs supported by trade with Mexico and Canada—22,200.

EXPORTS

Arkansas exports to Mexico and Canada reached $540 million in 1992.

Arkansas was one of 17 states which ranked Mexico among their top three markets. Canada, our other NAFTA partner, was Arkansas' top export market; Mexico was third largest.

4,900 jobs in Arkansas in 1992 were supported by exports to Mexico. Over 50 percent of those jobs were created in the past five years, since Mexico began liberalizing its import regime.

Arkansas' merchandise exports to Mexico rose from $38 million to $118 million from 1987 to 1992.

By more than tripling its exports in 1992, Arkansas ranked among the top half of all 50 states for the percentage change in state exports.

Arkansas' exports to Mexico grew 214 percent from 1987 to 1992, 97 percentage points faster than the state's export growth to the rest of the world.

Arkansas' exports to Mexico in 1992 were broad-based, led by: transportation equipment ($40 million), food products ($17 million), agricultural corps ($15 million), chemical products ($9 million), industrial machinery & computers ($7 million), and primary metal industries ($6 million).

Arkansas boosted exports of a range of goods to Mexico over the five year period. Included were transportation equipment (from $1 million to $40 million), furniture & fixtures (from $0 to $1.5 million), and lumber & wood products (from $25,000 to $1 million).

In 1992, Arkansas' exports to Canada totalled $421 million. Arkansas' exports to Canada more than doubled over the past five years, during which the U.S.-Canada Free Trade Agreement was implemented (January 1, 1989).

ARKANSAS SUPPORTERS OF NAFTA

AT&G Company, Inc., AZ Industries, Inc., Aermotor Pumps, Inc., Allen Engineering Corporation, Alliance Rubber Company, Alumax Aluminum Corporation, Aluminum Company of America, Amoco Foam Products Company, Anthony-Higgs Lumber Company, Arkansas Best Corporation, Arkansas Bus Exchange, Arkansas Eastman Division, Arkansas Farm Bureau Federation.

Arkansas Power & Light Company, Arkansas State Chamber of Commerce, Aromatique, Inc., Associated Industries of Arkansas, Inc., Baird Manufacturing, Inc., Baker Car & Truck Rental, Baldor Electric Company, Bancroft Cap Company, Belden Wire, Bemis Company, Inc., Benton Veneer Company, Best Foods, Division of CPC International.

Bibler Brothers, Inc., Boston Industrial Products Division DANA, Branscum Harness Lumber Company, Carco Transportation Systems, Carlson Company, Inc., Central Moloney Transformer Division, Century Tube Corporation, Colson Caster Corporation, Cooper Tire & Rubber Company, Cope Plastics, Inc., Delta Consolidated Industries, Inc., Earle Industries, Inc., Firestone Tube Company,

FPEC Corporation, Garreco, Inc., George Koch Sons, Inc., Georgia-Pacific Corporation, Global Manufacturing, Inc., Great Lakes Chemical Corporation, Halstead Metal Products, Hitech, Inc., Hot Springs Packing, Hudson Foods, Inc., Innovation Industries, Inc., International Paper Company.

Jason International, Inc., J.B. Hunt Transport, Inc., L.A. Darling Company, Magnetek, Inc., Mazander Engineered Equipment, Mid-South Engineering Company, Moll PlastiCrafters, Moore Forest Products, Inc., National Filtration Corporation, Morac Company, Inc., Nucor Yamato Steel, Okla Homer Smith Furniture Mfg. Company, Orbit Valve Company.

Phelps Industries, Inc., Phillips Litho Company, Inc., Polyvend, Inc., Potlatch Corporation, Power Technology, Inc., Producers Rice Mill, Quest Corporation, Riviana Foods,

Inc., Rose Law Firm—Charles Baker, Southwestern Bell Corporation, Speciality Rice Market, Strong Systems, Inc.

Sugar Hill Partners, The Alan White Company, Tri-State Iron & Metal Company, Tyson Foods, Inc., Union Camp Corporation, Weldon, Williams & Lick, Inc., Weyerhauser Corporation, Whirlpool Corporation, Winrock Enterprises, Inc.

Mr. BRADLEY. Mr. President, I would like to say how significant I believe the speech that we have just heard is for the prospects for NAFTA. The distinguished Senator from Arkansas is known as someone who carefully reviews the issues and all of the facts and arrives at a considered judgment. His view really does influence people far beyond this Chamber. I thank him very much for his statement.

Mr. PRYOR. I thank my friend from New Jersey, my colleague who I was privileged to enter the Senate with in 1979.

Mr. BRADLEY. Mr. President, nearly 2 months ago, I came to the Senate floor to raise an alarm about the way we spend taxpayer money. At that time, we were all making it very plain that this summer's budget package did not go far enough to cut Federal spending. "More cuts," we said; "less spending," we said—a sentiment with which I agreed.

I knew, though, that making real cuts would not be possible unless we could agree on some kind of guideline that would steer our spending decisions. Without a larger definition or principle, we could argue forever about the essential value of each individual program, making it appear as if every dollar in the Federal budget were absolutely indispensable.

So, early in September I suggested that the remaining appropriations bills before the Senate be considered in the light of two specific principles: One, does the proposed spending provide something that is in the general interest and is essential in American public life, and two is taxpayer funding the only and most cost-effective way that the proposal can be financed?

We have almost finished our work on appropriations bills. We are not, Mr. President, flush with savings generated by successfully applied principles—mine or anyone else's. We have instead dutifully responded to our unique Pavlovian bell, the one that rings "business as usual." We have enacted routine appropriations bills, routinely passing the buck to the next generation because we would not live up to the tough choices of our own generation.

In the course of the last 2 months, I offered several amendments that I felt would help steer us toward a more rational stewardship of our constituents' money. I proposed that we cut funding for wasteful coal liquefaction research and Federal timber subsidies; for unrequested Army Corps of Engineers projects; for the gas turbine-modular helium reactor, a nuclear reactor whose construction is opposed by the National Academy of Sciences; for unspecified Army National Guard aircraft; and that we eliminate the Selective Service System, a dinosaur in the post-Soviet world.

Slightly more than $500 million in cuts, $500 million in taxpayer money that failed the test of principles I had established, $500 million in taxpayer money I was—and am—sure would be better used to reduce our massive deficit.

With one exception, these amendments failed. There were arguments against each, to be sure, and interests that felt threatened. But these amendments did not fail because they were actually in the general interest or because taxpayers were the only source of financing; they failed because business as usual is easier than good business, tough choices, and sound fiscal policy.

Several other Senators offered spending cut amendments as well. I was not the only one. There were proposals to reduce funding for the space station, the Market Promotion Program, *Seawolf* submarine procurement, and so on. A conservative estimate shows that amendments totaling $5.8 billion in real cuts in fiscal year 1994 were offered to the appropriations measures. I supported 90 percent of the cut votes, amounting to $5.2 billion of the $5.8 billion total.

Most of those amendments offered by other Senators to cut the budget were defeated as well. Of the $5.8 billion in cut amendments offered to the 13 regular appropriations bills, we succeeded in striking only 60 million dollars' worth of spending. In other words, we only passed 1 percent of the spending cuts that were proposed in the Senate on appropriations bills—only 1 percent.

More cuts, we said. Less spending, we said. More spending, we voted. Less cuts, we voted. And while no one is faultless, the record shows very plainly that Democratic Senators supported more spending cuts than Republican Senators.

And yet, despite my disappointment, I have found that it is not so easy to stop spending taxpayer money. The appropriations process, like Plato's cave, presents us with little more than shadows at which to take aim. Most of the spending occurs behind closed doors, and by the time the decisions emerge, opportunities to make real cuts are more illusory than real.

Before an appropriations bill gets to the floor, about the only chance a noncommittee Senator has to impact the process is during consideration of the budget resolution. But what kind of impact is this?

A Senator can offer an amendment to lower broad aggregates of spending, claiming elimination of honey subsidies or the space station or anything. You reduce the nondefense discretionary aggregate and say, well—what I mean to imply by that is that I am after the honey subsidy. But it does not really matter what you say because no funds are spent pursuant to the budget resolution. The best we can get is a lowered set of aggregates. You cannot cut a specific program, however wasteful, at a budget resolution level. You are simply reducing the overall aggregate.

The real decisions and the real tradeoffs come when the 602(b) allocations are made to the appropriations subcommittees. At that point anything could happen—and the decisions might or might not be based on a rigorous comparison of priorities, the assumptions of the budget resolution, or directions offered by the President's budget.

If you do not sit on the Appropriations Committee you just do not know how or why this program or that program got a 602(b) allocation or a 302(b) allocation; you do not know.

Finally, the appropriations bills come to the floor in a form, shaped by the Appropriations Committee. An outsider might think this is where the action can really begin. When it comes to the floor, you can stand up like many of us did over the last several months and propose to eliminate that wasteful program. But the outsider who assumed that would be wrong. First, you have to decipher the various codes used to identify programs and decide which lack merit. It is not always easy in an appropriations bill to tell which programs are which. Even if you are able to do that, however, there is really no way to cut these programs, no way.

You are locked into a vicious circle. If your amendment eliminates a specific program account, your opponents claim that unless you reduce the 602(b) allocation as well, your proposed reduction can just be siphoned off into other programs under the subcommittee jurisdiction. In other words, you can come out here and vote to cut honey subsidies or whatever, but that does not mean that you are going to eliminate the honey program. It just means the money is then available for the subcommittee to allocate in another way, maybe even to that program.

So you try to lower the 602(b) allocation and reduce the discretionary caps. You are then greeted with a point of order, demanding 60 votes as payment for trying to alter the allocations that unless you are on the Appropriations Committee you never voted on in the first place. A real catch 22. Or, given the way we spend money around here, a real catch 22 billion.

Perhaps it should be no surprise then that we could only cut $60 million from the regular appropriations bills. And lest we count that savings too fast, we should not forget that it could reappear in conference reports.

As long as the House conferees wield a larger allocation than you do in the Senate you cannot be sure that the cuts that you have made and approved will even stick. I even found cases this year where the Senate zeroed out programs and the conference came out with funding levels higher than the House figures.

Let me repeat that. The Senate zeroed out a program and the conference committee came out with a number higher than the amount that the House even approved.

In this U.S. Senate, in this Congress you can zero out a program and you can come back with more money than even the one body that approved the spending requested.

This is not a happy sequel to this summer's tough talk about spending cuts. Each year about this time we make a tally and see how we did. We have been failing for a long time. We have failed again.

Perhaps we have one more chance. We will soon consider a package of rescissions offered by the President. Several Members of the Senate, myself included, are anxious to work on this package. Although it would be better to tackle the spending headon than to pound on the barn door with a rescission package after the spending horse has already galloped away, this effort is welcome.

I am hopeful, but not optimistic, for the prospects in this rescission bill. There is simply too much evidence of our willingness to look the other way. We have looked the other way and accepted failure too many times for me to expect new resolve and stronger will now.

The experience of the last 2 months tells me that the time has come for a new wave of budget reform. We need to vote on national priorities and budget resolutions, but we also need to be able to take meaningful votes on individual programs.

Right now, the budget process, the appropriations process, and the authorizing committees work at cross purposes, always tending toward higher spending, business as usual, and meaningless votes. We need to get them working together, toward our common purpose of reducing the deficit and building economic security for all Americans.

Mr. President, last, we have to keep in mind that discretionary appropriations are just a small part of that total picture—a $1.5 trillion budget, $750 billion for entitlements, $300 billion for defense, $200 billion for interest, and you end up with a little under $250 billion for discretionary.

Mandatory spending programs—entitlements—now account for roughly half of all Federal spending, and tax loopholes add tens of billions more to the deficit every year. We all know that we have to come to grips with entitlements. That means Medicare, it means Medicaid, it means Social Security, it means civil service and military pensions, and it means special interest tax breaks in the Tax Code. Everything, Mr. President, has to be on the table if we are going to cut spending.

You cannot simply say we will just do appropriations or we will just do entitlements. You also have to say we will also do that spending we do in the tax committees for example by collecting less tax from you if you rent tuxedos and get rapid depreciation.

But before we lower health care subsidies for seniors, ask more of our civilian and military retirees, or ask for restraint in tax expenditures, we have to show the American people that we can eliminate wasteful, inefficient, and obsolete spending in the appropriations process.

How high does our national debt have to go before we are willing to succeed in cutting spending? Well, if that debt goes much higher, Mr. President, we will have to live with our failures for generations to come.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. EXON] is recognized.

Mr. EXON. Mr. President, I want to compliment my friend from New Jersey for his outstanding remarks. He comes right to the point, as he usually does.

I would simply say to the Senator from New Jersey that he has been talking about the evils that have been evident in the system for a number of years and that is how much legislation and how much spending is agreed to frequently in conference between the House and Senate. Laws are written there that never passed either body, appropriations are approved there that never come from either body.

It was a great Senator from the State of Nebraska, George Norris, who many, many years ago fought the battle for reform. He always felt that one of the biggest problems that we had in this body was just what the Senator from New Jersey is talking about, and that is the conference committees working their own will in sometimes strange and unusual ways, maybe sometimes for the good rather than the bad. But he thought that was an evil in our system.

I do not know how we are going to correct it, because I am not sure we want to change things dramatically. But the Senator's point is well taken.

In fact, former Senator George Norris, of Nebraska, felt so strongly about this that he was the father of the one-house system in Nebraska. In Nebraska, we are the only State in the Union that has a single house legislature. And the reason that George Norris created that, among other reasons, was to eliminate the evils that he saw taking place in the conference between the House and the Senate many, many, many years ago.

I thank the Senator for bringing it up.

UNAUTHORIZED DISCLOSURES

Mr. EXON. Mr. President, I rise on the floor of the U.S. Senate to discuss a very important and sensitive matter—the unauthorized release of national security information by someone in our Government.

This morning's Washington Post contained a column by Mr. D. Robert Novak, entitled "Allegations About Aristide."

Mr. President, I ask unanimous consent that the article be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. EXON. Mr. President, I am in an awkward position because I cannot, and will not, confirm, deny, or verify one single word in this column. Suffice to say, not a sentence, word or punctuation in that article came from me in any form and I had no staff present at the meeting described.

Nevertheless, it appears that an unauthorized leak of possibly highly classified national security information may have taken place. For the record I emphasize again that I was not the source of any information which led to this column or any other report in the news media about the classified CIA briefing held here in the Senate last week. I never have, and never will, reveal classified information.

As chairman of the Senate Subcommittee on Nuclear Deterrence, Arms Control and Defense Intelligence, I have been privy through the years to most of our Nation's most closely held secrets. I feel distressed making a statement ensuring everyone that I was not the source of a classified leak; however, the average reader of this morning's Washington Post column might have the impression that I was the source and I feel compelled to dispel any such notion.

Mr. President, the Standing Rules of the Senate provide very specifically for the protection of classified and confidential information. I quote from rule 29, paragraph 5 of the Standing Rules of the Senate:

> Any Senator, officer, or employee of the Senate who shall disclose the secret or confidential business or proceedings of the Senate, including the business and proceedings of the committees, subcommittees, and offices of the Senate, shall be liable, if a Senator, to suffer expulsion from the body, and if an officer or employee, to dismissal from the service of the Senate, and to punishment for contempt.

Since I do not know exactly what was leaked—whether classified information itself was leaked or simply the impressions of those present or a list of Senators present, it is hard to know

how severe this episode was. The disclosure of classified information is covered not only by the Senate rules but also by Federal statutes, namely United States Code, title 18, section 798. The leak of actual classified information is an offense for which there is no ambiguity regarding whether or not laws and rules were violated.

Nevertheless, even if classified information, per se, was not leaked, I believe that the Senate rules still prohibit what may have happened. The Senate rule that I cited earlier, was amended just 1 year ago to further tighten the Senate's procedures against the disclosure of confidential business or proceedings of the Senate so as to include all business and proceedings of the Senate, including briefings such as the one given on Haiti. In this sense, the word confidential does not necessarily correspond to the standard levels of classification in the national security sense as we know them—namely confidential, secret, and top secret.

Rather, confidential in the sense of Senate rule 29, paragraph 5, can refer to information which simply should not be disclosed whether or not it falls under the strict classification guidelines as enunciated by the Department of Defense.

Either way, the disclosure of information from last week's briefing in my view constitutes a violation one way or the other of at least the Senate rules.

Mr. President, something very unethical and in violation of the Senate rules has taken place with regard to the leak by some person or persons which led to not only to this morning's Washington Post column but also other occurrences during the intervening period between the CIA briefing and today.

I received several calls from reporters questioning me about what took place during the CIA briefing. Several of these calls were from reporters I did not know and some I have not yet come to know and, for the most part, had not even heard of before. It is obvious to me that some sort of concerted effort was undertaken by some person or persons to not only alert the media to what went on during the CIA briefing but also to advertise the names of the Senators who attended.

As U.S. Senators, we have taken an oath and have a solemn responsibility to work in concert with whatever administration is in power in order to pursue the national security objectives of the United States. We are given a trust. Congress and the executive branch each have responsibilities in this area. While the President and the executive branch execute our foreign and defense policy, the Congress under our Constitution has a collaborative role to play.

During the 1970's, the rules of the game were changed to involve Congress more intimately in the execution of our national security policy following disclosures of intelligence activities run amok during an earlier time. Congress insisted and passed laws to involve itself further in these areas as a check and balance against a potential runaway President and administration. With that increased involvement, and the trust placed in us, comes a responsibility. That responsibility is to safeguard the classified information which we ourselves have insisted we receive in order to become a fuller partner in these policies.

Mr. President, all of this background I have provided is a preface to my main reason for coming to the Senate floor today. I do not know for sure who leaked information about last week's CIA briefing. I do not even know for sure if the leaker was a member of the legislative or executive branch of our government.

But I want to say here and now, very loud and very clear, that this practice of disclosing classified information must stop and must stop now. The reasons for any such leaks do not interest me in the slightest. Apparently some people leak in order to further their own side of a policy argument. Others may leak to exonerate themselves for whatever reason, possibly including publicity seeking.

In short, the reason makes no difference. The act of leaking is the problem and it must stop.

I ask the Senate leadership to initiate whatever steps may be necessary in an effort to determine who caused this leak of classified national security information. In doing so, I recognize that our Government's record of tracking down and punishing leakers have been very poor, primarily because the act of leaking is a clandestine one and also because the media insist on protecting its sources. And I can understand that.

Nevertheless, I believe the leadership of the Senate should launch an appropriate investigation to attempt to find out who violated Senate rules in this regard. Even if we are not successful, hopefully the enforcement of Senate rules will act as a deterrent to future such violations.

Again, Mr. President, this is a very serious matter and I believe that it is important for us to get to the bottom of it, if we can.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Oct. 28, 1993]

ALLEGATIONS ABOUT ARISTIDE

(By Robert D. Novak)

Hearing shocking allegations about Jean-Bertrand Aristide during a CIA briefing of 13 U.S. senators, Sen. James Exon of Nebraska was so exercised that he asked: Have President Clinton and Secretary of State Warren Christopher been told that the exiled Haitian president's past predicts a violent future?

Administration officials present Oct. 20 said they did not know. Exon, one of three Democrats present, sent Wendy Sherman, assistant secretary of state for legislative affairs, to find out. She returned shortly to say yes, Clinton and Christopher had heard it all, but added there was a "dissenting" view to what the senators had just been told.

CIA briefer Brian Latell, a 30-year career officer, bristled. "There is no dissenting view within the intelligence community," he said, rejecting claims that the Defense Intelligence Agency takes a friendlier view of Aristide.

Latell's certitude generated unease in the Democratic cloakroom. The senators' opinion of Aristide has been so changed that willingness to send U.S. troops to Haiti to restore him is radically reduced. There is also concern about Bill Clinton's continuing blank-check endorsement of Aristide in the face of his own intelligence community's damning assessment.

The extraordinary briefing was insisted on by Sen. Jesse Helms, senior Republican on the Foreign Relations Committee. The majority and minority leaders, George Mitchell and Robert Dole, agreed to call the CIA. The small turnout (not including Mitchell) is partly explained by the fact that senators were notified at 5:30 p.m. that the event was starting immediately in secure room S-407 at the Capitol.

Latell began by documenting the case that Aristide, a defrocked Catholic priest, has psychological disorders and has used 13 kinds of medication. He next gave details of how Aristide, in seven months as president, incited mobs to "necklace" enemies—put burning rubber tires around their necks. He then listed the chain of command, starting with Aristide, that ordered the jail-cell murder of political foe Roger LaFontant on the night of the military coup that deposed the president of Haiti.

But what was most stunning was Latell's projection for the future. The CIA briefer is reported by one participant as predicting this about an Aristide restoration: "He will rule with violence. He will settle scores."

Exon and Republican Sen. Larry Pressler, political centrists, expressed outrage over the U.S. government putting its power behind such a man. But nobody seemed as affected as Democratic Sen. John Kerry of Massachusetts, who came into the Senate eight years ago as a Vietnam War combat-veteran-turned-dissenter and has become a thoughtful student of foreign policy.

When Kerry first heard Latell talking about Aristide's alleged psychological disorders, the senator looked unimpressed. But as the allegations rolled on, the smile left his face. On the record, he told me that "legitimate questions were raised" about U.S. policy.

Senators of both parties worry why Clinton did not react more like John Kerry. On his morning jog Saturday, Clinton said Aristide is fit to govern Haiti—a view he said was backed by "everyone else in the administration working with him." The president then went on to denigrate CIA information as "not always accurate." The next morning on national television, Vice President Al Gore extolled Aristide as "reliable" and "very thoughtful."

That contrasts with the State Department position, in both the Bush and Clinton administrations, that Aristide is violence-prone and certainly no democrat but should be restored for the sake of democracy. Alexander Watson, the newly installed assistant secretary for Latin America, during the Oct. 20 briefing defended backing Aristide because he was "duly elected" and "has to be supported."

The State Department formulation is subject to legitimate debate. The president's open-ended endorsement of Aristide, sounding like a political backslap of an errant White House aide, is not.

The PRESIDING OFFICER. The Senator from Wisconsin [Mr. KOHL] is recognized.

THE YOUTH HANDGUN SAFETY ACT

Mr. KOHL. Mr. President, I rise today for two reasons: First, to discuss a tragedy of epidemic proportions, namely the explosion of handgun violence, especially among our youth; and second, to tell the Senate that last week the Juvenile Justice Subcommittee took a step toward curbing this bloodshed by endorsing the Youth Handgun Safety Act.

From Wisconsin to Washington and from Miami to Marin, we are witnessing an eruption in the number of children killing people—and being killed—with handguns. We need only to open a newspaper any day to find the terrible proof: A 15-year-old Madison girl shooting her teenage boyfriend; the drive-by shooting of a 12-year-old Milwaukee boy; an Anacostia student shooting his 13-year-old classmate in the locker room of their junior high; a 4-year-old D.C. girl killed in the crossfire of a brutal gang shootout. The list goes on and on.

The national statistics on youth violence are equally disheartening. In 1984, a total of 1134 juveniles were arrested for murder. But by last year, that number had gone up 2½ times to 2829. According to the Justice Department, the vast majority of these murders were committed with firearms, and most were committed with handguns.

The numbers for juvenile weapons arrests are equally discouraging. In 1982, 21,122 juveniles were arrested on weapons charges nationally. But by last year, that number has spiraled to more than 46,000. Again, guns were involved in the vast majority of these arrests, and handguns in most of them.

Wisconsin's increases in these categories were even worse: My State went from 12 juvenile murder arrests in 1982 to 94 in 1992. That is not only unacceptable, Mr. President, it is unconscionable.

It is not the kind of world that our children deserve. It is no the kind of world we ought to give them.

But we can begin to change that world. Not easily. Not quickly. Not painlessly. Not with a single simple solution. But we can begin to change it.

To start, we need new laws, stronger as well as enforceable, to restrict the flow of handguns in our communities and to our children. To that end, my subcommittee last week took a step in that direction: It favorably reported the "Youth Handgun Safety Act." Our bill would make it a Federal crime to sell or give a handgun to minors under the age of 18, and for a minor to possess a handgun under most circumstances. I plan to offer it as an amendment to the anti-crime legislation that we will begin to debate next week. The measure is supported by the President, the Attorney General, police organizations, and gun control advocates. Even the NRA is supportive.

We know that the proposal by itself will not end youth violence.

How can it when so many of our children come from broken homes? When so many are raised in front of TV sets, which teach them that violence is a normal, natural, appropriate way to act? When guns and crime and violence are seen, by some, as the only way to get ahead? When some parents can not or do not discharge their primary responsibility of supervising their children.

We know there are many causes for this problem. And we need many different initiatives to address it.

But our Juvenile Justice Subcommittee held hearings on kids and guns in Washington, Wisconsin, and Arizona. It heard from a wide array of witnesses: teachers, doctors, ministers, police, victims, and teens. And, Mr. President, the verdict was unanimous: kids and handguns do not mix.

Even some gun manufacturers agree. The NRA told my subcommittee that it is "generally supportive of the [bill's] approach." And the retired president of Browning Arms, Harmon G. Williams of Utah, went further: he now supports a ban on handguns for juveniles.

Let me read from an article in the October 14 New York Times:

For most of his life [Williams] said, he viewed such measures as "absolutely unnecessary," but now supports outlawing handguns for minors. "All of a sudden," he said, "we're looking around at what's happening—all this terrible violence—and thinking, things have gotten out of hand. Something has got to be done."

Mr. President, Mr. Williams was absolutely right. Something has got to be done. That something—or at least a start—is the enactment of the Youth Handgun Safety Act.

Because unless we act now, the future we are creating is one that too many of our children will not live to see. And it will also be a future we will not want to live in.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER (Mrs. MURRAY). The Senator from Arizona.

Mr. DECONCINI. Madam President, I want to say to the Senator from Nebraska, having read the article he pointed out, that it is most discouraging that someone, indeed, has obviously leaked that information. I went to that briefing that he was at. I think it was 4 o'clock at first, then 4:30. They postponed it, and then when they finally had it, I could not go.

I witnessed the same briefing as the Senator did on the same subject matter. So I know the significance of the information that was given. I also know from working with the Senator from Nebraska, there is nobody in this body who would ever even suggest that he would take any impropriety toward any information.

The article in the paper that you point out, certainly might be construed otherwise. I think it is most unfortunate, first of all, that anybody—staff or Member—would disclose the information that was given in that briefing, or any other briefing, and then to be quoting the Senator who did not even talk to the writer of the article is very, very disturbing. I know where the Senator stands on such issues.

GRAZING

Mr. DECONCINI. Madam President, I want to spend a few minutes regarding the vote that we just had on the conference report. Where we tried to end debate and impose cloture. I rise today to set the record straight on a few things that have been said over the days and weeks of this debate.

It is apparent that many of my colleagues have not taken the time to read and fully understand this legislation; that is, the grazing reform part of the legislation. My friend from Wyoming, Mr. WALLOP, has referred to the opposition of State water engineers.

I am going to have printed in the RECORD a letter from the director of the Arizona Department of Water Resources, Ms. Rita Pearson, and my response to it. The letter does, indeed, raise some very fundamental questions that deserve response. It is unfortunate that those who sought an opinion from Ms. Pearson chose only to provide portions of H.R. 2520.

I must guess that her response would have been very different if the entire bill and relevant portions of the legislation, as amended, and the Federal Land Policy and Management Act, as amended, would also have been provided to her. I know her. She is a very competent lawyer in water, as well as other issues, and she is very thorough. In this case, she did not have all the information. She only had part of it.

The first question raised is if rangeland reform applies exclusively to BLM land and if "public land" refers only to BLM lands.

The amendment contained in H.R. 2520 applies only to the Department of the Interior. Page 62, section 317 of the conference report specifically directs that:

Title IV of the Federal Land Policy and Management Act of 1976 is amended by adding the following sections;

Title IV, of FLPMA deals with grazing exclusively. In addition, section 406 of the conference report—entitled "Rangeland Reform"—specifically directs the Secretary of the Interior to promulgate regulations. It is without doubt that the rangeland reform only applies to the Department of the Interior, Bureau of Land Management. The

Secretary cannot direct and promulgate regulations for other Cabinet and other agencies.

I would like also to respond to another very important question raised in this letter: Does public land refer only to BLM land?

The Federal Land Policy and Management Act of 1976 provides a definition of public land.

Section 103(e): The term "public lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership.

The answer is clear: This reform applies only to BLM land and public lands are clearly defined as those managed by the Bureau of Land Management.

A second question that deserves an answer is: Does the law need to be clarified so that the water rights currently existing or to be developed in association with BLM land must be established pursuant to State law?

Good question, and I have a good answer.

Once again, if all the appropriate records and laws pertaining to the issues are examined, it is clear that the Federal Land Policy and Management Act of 1976, Public Law 94-579, provides specific directions.

Title VII of FLPMA, "Effects on Existing Rights," provides specific language to address the Federal responsibility as it pertains to water on the public lands managed by the BLM.

Section 701(g) provides that:

Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States, or (2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests or rights in water resources development or control;

(3) as displacing, superseding, limiting or modifying any interstate compact or the jurisdictional responsibility of any legally established joint or common agency of two or more States or of two or more States in the Federal Government.

Madam President, under this compromise action concerning water rights, which will be before us when this conference report returns to the floor, future actions on water rights will be taken in concert with State laws. That is so clearly stated in FLPMA. Secretary Babbitt has provided a letter to that effect, also, which has been included in the RECORD, and I will include another copy which I would like to have attached to my remarks.

The Federal Land Policy and Management Act provides legal recognition of the State's responsibility and jurisdiction over water issues. Period. Paragraph.

I share the concerns expressed over water issues in the West. This Senator has fought long and hard for Arizona's water rights. It is fair and responsible for the State water agencies in the West to be concerned about our water rights. It is especially so given that it appears that incomplete information has been provided for their review.

The definitions and the specific language contained in H.R. 2520 and in the Federal Land Policy and Management Act of 1976 clearly define that the reform applies only to public lands managed by the Bureau of Land Management.

In addition, State water rights and State water law will be adhered to by the Secretary of the Interior. For the information of my colleagues, FLPMA addresses the multiple use of public lands. It has sections dealing with rights of way, water rights, grazing, and a host of other multiple-use issues. Any one line of one of these sections taken out of context could be construed as having serious effects on other multiple-use activities. We who are lawyers, as well as those who are not, and those who write laws, know that the whole context of a law must be taken into consideration.

Additionally, FLPMA has been the law of the land since 1976. With the exception of title IV—range management—the law will not change.

I am chagrined at the misrepresentation of the facts of this compromise. And, I would encourage my colleagues to examine the Reid compromise closely, but also look at what the compromise amends. You cannot accurately assess the effects of this compromise without understanding the very basic facts I have laid out.

Scare tactics and partial information are creating an inaccurate perception of this compromise. There is a lot of apprehension based on uninformed assumptions, and I am sorry to see the seeds of fear being planted in my constituents and other Western citizens. I would have hoped that opponents of this compromise would have looked at the whole picture when such an important issue as grazing reform and the whole Interior and related agencies appropriations bill are in jeopardy.

Mr. President, I represent my whole State: Ranchers, Federal employees whose jobs depend on passage of this appropriations measure, and others who use or enjoy the public land in ways other than grazing. The best thing that we can do for all of our constituents is to support this compromise and vote for passage of this conference report.

Finally, Madam President, I ask unanimous consent to have printed in the RECORD a letter from Peterson Zah, President of the Navajo Nation, describing the importance to the Nation of the passage of this appropriations measure and encouraging Senators to vote for cloture.

I represent my whole State, Madam President, ranchers, Federal employees, native Americans, and others who benefit from this bill, and it is a bill which ought to be passed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARIZONA DEPARTMENT
OF WATER RESOURCES,
Phoenix, AZ, October 25, 1993.

Re: H.R. 2520; Interior appropriations.

Senator DENNIS DECONCINI,
Washington, DC.

DEAR SENATOR DECONCINI: I recently obtained a copy of that portion of HR 2520, the Bureau of Land Management (BLM) Grazing Bill, containing language affecting water rights on BLM lands. The water rights language raises several issues I hope will be addressed prior to action on this bill.

First, it is not clear from the portions of the bill I reviewed that the rangeland reforms apply exclusively to BLM lands. These provisions do not apply to state public lands and an ambiguity should not be created regarding this application. If it is not already clear from a provision defining "public lands", it should be clarified that "public land" referred to in section 406(d) and 406(i)(2) refers only to BLM lands.

Second, it should be clarified that the water rights currently existing or to be developed in association with BLM lands must be established pursuant to state law. Any doubt should be eliminated regarding the continuing application of state law to water rights on BLM lands.

Third, the term "grazing-related actions" needs to be defined and the location of these actions should be limited to "on public lands".

To accommodate these concerns, I suggest changes indicated below. Deletions are indicated by brackets and new language by italic.

SEC. 406(d) WATER RIGHTS.—Subject to [valid] water rights *established pursuant to state law* existing on the date of enactment, [no] water rights *on public lands* shall be obtained *pursuant to state law* for grazing-related action on *such* [public] lands [except] in the name of the United States.

Section 406(i)(2) The permittee or lessees may hold the title . . . to protect the public interests for multiple use of rangeland ecosystems. *For water rights developed pursuant to Section 406(d)* the United States shall assert its claims and exercise its rights to wager developed on public lands *pursuant to state law* to benefit the public lands and resources thereon.

Finally, while these comments are limited to concerns about the language used in water-related provisions of H.R. 2520, I believe they are indicative of a general concern that additional review and comment by western states is necessary before this legislation is formally adopted. I would like to offer my assistance to you, or your staff, in any efforts to consider the effects of this proposed legislation on our state, and encourage you to support current efforts to stop this legislation until it is properly amended.

Thank you for your consideration of this matter.

Sincerely,

RITA P. PEARSON,
Director.

U.S. SENATE,
Washington, DC, October 27, 1993.

Ms. RITA PEARSON,
Director, Arizona Department of Water Resources, Phoenix, AZ.

DEAR RITA: Thank you for your letter of October 25, 1993 concerning the conference

report on H.R. 2520, the Fiscal Year 1994 Interior and Related Agencies Appropriations bill.

Your letter raises several questions concerning the possible impacts of provisions known as the "Reid compromise" on grazing reform contained in the bill. From the questions you raise in your letter, I can only conclude that you were not furnished the complete set of records on the subject.

On page sixty-two of the Conference Report accompanying H.R. 2520, there is an amendment to the Federal Land Policy and Management Act of 1976 (FLPMA), PL 94-579. The amendment specifically amends Title IV—Range Management of FLPMA. In addition, FLPMA contains language (Section 103) which further defines that the Act applies only to public land. The definition of public lands contained in FLPMA, is as follows:

Section 103. (e) The term "public lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership.

As you can see, both the "Reid compromise" and the FLPMA clearly limit action on grazing reform to the BLM and to public lands administered by the BLM.

The other question you posed is whether the water rights currently existing or to be developed in association with BLM lands must be established pursuant to state law. Title VII of FLPMA—Effects on Existing Rights—provides specific language to address the federal responsibility as it pertains to water on the public lands managed by the BLM. Specifically, Section 701 (g) of FLPMA, provides that:

Section 701. (g) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States—

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two or more States and the Federal Government;

When FLPMA was passed in 1976, water rights were a major issue throughout the West. The questions concerning Federal and State water law were addressed through the inclusion of Section 701(g).

Secretary Babbitt, in response to a letter from Governor Roy Romer of Colorado, also addresses the issue of water rights, including Section 701(g) of FLPMA. I have enclosed the Secretary's letter.

I appreciate your input on this issue. Unfortunately, the questions you raised have not been adequately addressed in the debate on this compromise and I am pleased to have the opportunity to correct some of the misunderstandings surrounding this amendment. I am confident that given all the information on the proposed changes you will conclude that valid existing water rights in Arizona are not in jeopardy.

As you know, water is very important to Arizona as is the multiple-use of our public lands. Please feel free to contact me if you have any additional questions or need further information.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.

THE SECRETARY OF THE INTERIOR,
Washington, October 28, 1993.

Hon. ROBERT C. BYRD,
U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: As consideration of the grazing reform compromise adopted by the Conference Committee continues, I would like to clarify certain provisions included in that compromise. These clarifications pertain to four important issues addressed in the legislation: grazing-related water rights; range improvements; subleasing; and prohibited acts.

Water Rights.—Opponents of the Conference Committee compromise grossly mischaracterizes the provisions relating to water rights. A detailed response is contained in the attached letter to Governor Romer. I would highlight these points: First, the policy change would be prospective only and would not affect existing property rights. Second, it simply aligns the BLM position on this issue with existing Forest Service policy. Third, these provisions affect only range-related water rights on BLM public lands used for grazing. Therefore they have no application outside the Western public lands states. The language and context of those amendments makes that unmistakably clear; it is simply unreasonable to construe them otherwise.

Range Improvements.—New section 406(1) addresses the issue of range improvement ownership. The Conference Committee compromise provides that the United States would have title to all permanent range improvements constructed in the future on public lands. Title to temporary range improvements used primarily for livestock handling or water hauling would be retained by the permittee or lessee. The Conference Committee compromise would not change the agreements currently in effect or affect the ownership of existing range improvements. Here too, in other words, the policy change would be prospective only and would not affect existing property rights. A permittee's interest for contributed funds, labor, and materials would be documented for proper credit in the event the land is disposed of or the permit or lease is subsequently issued to a different party. The proposal is similar to existing Forest Service policy with respect to range improvements. It applies only to range improvements on public lands administered by the BLM for grazing purposes; it does not affect hydroelectric developments, electric power lines, natural gas pipelines, or other permanent improvements unrelated to grazing, nor to improvements on Forest Service lands. Again, the language and context of these amendments make that unmistakably clear, it is simply unreasonable to construe them otherwise.

Subleasing—New section 406(a) imposes a leasing surcharge for authorized leasing of base property to which public land grazing preference is attached or authorized grazing of livestock owned by persons other than the permittees or lessee. I will construe this provision to recognize and leave unchanged the current Bureau of Land Management practice which allows subleasing to family members when they are operating within the family operation or are assuming control of the family operation.

Prohibited Acts—New section 406(1) requires the Secretary to promulgate regulations to make violation of the Wild Horse and Burro Act, the Endangered Species Act, and federal and state laws concerning "conservation, protection of natural or cultural resources, and protection of environmental quality" prohibited acts. Upon expiration of appeal or review periods following a conviction for violation or administrative finding of violation of these laws, the authorized officer may consider cancellation or suspension of the permits or leases where the violation has occurred on public land or is related to authorized grazing of public land. The proposal would adopt language that existed in the BLM's regulations prior to 1984, and is compatible with existing Forest Service policy. It deserves emphasis that the Conference Committee compromise ensures that no suspension or cancellation of a permit or lease can occur until there has been a full opportunity for appeal of the finding of a violation or a conviction. Finally, convictions and violations unrelated to these environmental and land use issues are not "prohibited acts" as used in the statute.

It also seems appropriate to clarify the Department's intentions with regard to public hearings on the new regulations required by the grazing reforms contained in the Conference Committee compromise legislation. The Department is committed to conducting public hearings in every Western grazing state prior to the implementation of any regulations. Moreover, the Department would welcome the opportunity to participate in any Congressional oversight hearings reviewing the Department's implementation of the grazing reform provisions of the compromise.

Finally, as I discussed with Senator Hatfield yesterday morning, most of the administrative authority which the Department has over grazing is entirely outside of, and unaffected by, the Conference Committee compromise. For example, the promulgation of standards and guidelines which govern stocking numbers, length of grazing seasons, use of riparian areas and the like, is a matter still within my administrative discretion with regard to which I remain ready and willing to discuss and negotiate with interested Senators. Likewise, the role of grazing permittees in the all important Resource Advisory Councils is a matter that I am ready and willing to discuss at any time.

I hope those clarifications regarding the Department's interpretation and intention with respect to implementing these provisions are of assistance in the Senate's consideration of the Conference Committee's grazing reform compromise. So there is no misunderstanding, I want to make clear that my interpretation of these provisions does not in any way bind my decisions regarding the Rangeland Reform '94 rulemaking which the Department would proceed to undertake should Congress decline to enact the grazing reform compromise.

Sincerely,

BRUCE BABBITT.

THE SECRETARY OF THE INTERIOR,
Washington, DC, October 26, 1993.

Hon. ROY ROMER,
Governor, State of Colorado, Denver, CO.

DEAR GOVERNOR ROMER: In your letter dated yesterday to Senators Mitchell and Dole you express particular concerns about certain provisions of Senator Reid's compromise public lands grazing reform (the Reid compromise) being debated as part of the FY 1994 Interior Appropriations bill. I must respectfully disagree with your characterization that these provisions would "inject such ambiguity and confusion into the process for allocating water in the West that litigation and uncertainty would prevail for years to come."

My staff and I have carefully examined the provisions in question. In my judgment as a

former Western State Attorney General, Governor, and private practitioner in water law, these charges simply cannot be sustained. Those parts of the Reid compromise that relate to water are in fact in the mainstream of water law as applied in the western states.

For example, nothing in new section 406(d) changes the traditional practice of acquiring water rights for livestock grazing on public lands under state law. It only ensures that, subject to valid existing rights, such water rights be obtained in the name of the United States. This has long been the practice on the national forests, as well as state law in many western states, including my home state, one of the most arid in the country.

Your letter expresses specific concern that the Reid compromise "could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well." Apparently you are referring to language in the last sentence of section 406(i)(2). But this sentence does not address federal/state relations in water law. It simply confirms the common sense principle that federal claims and rights to water "developed on public lands [shall be exercised] to benefit the public lands and resources thereon." Moreover, the sentence is part of a subsection addressing grazing-related water rights; more specifically, cooperative range improvement agreements. (It is captioned "Range Improvement Ownership.") There is simply no way a court could read this innocuous language to create broad new categories of federal water rights, whether for grazing or non-grazing purposes, in denigration of state water law.

You have also raised concerns about section 406(o), which directs the development of standards and guidelines that "establish minimum conditions for the protection of rangeland ecological health," and which shall include, among other things, "restoration and protection of riparian values, such as healthy wildlife and fish habitat and diverse vegetation." Nothing in this section addresses water rights or state-federal relationships in the area of water; rather, it merely furnishes direction for the Department in the implementation of existing law. That law (the Federal Land Policy and Management Act, or FLPMA) has for nearly two decades required BLM lands to be managed for "multiple use" and "sustained yield," and defines these terms to require accounting for, among other things, "the long-term needs of future generations for renewable and nonrenewable resources, including . . . watershed, wildlife and fish, and natural scenic [and] scientific . . . values." 43 U.S.C. 1702(c).

Each of the provisions in the Reid compromise about which you have concerns is an amendment of FLPMA. That Act's general disclaimer on water rights (Section 701(g), 43 U.S.C. 1701 Note) remains intact. No court has ever interpreted FLPMA as changing state-federal relations in water law. The experience under it has been exactly the contrary.

You have my assurance that the Department of the Interior will, if these provisions are enacted into law, interpret and apply them in conformance with their intent—not to make drastic changes in state-federal relations in water law, but rather to ensure that water rights obtained under state law for grazing-related purposes on public lands serve federal grazing-related needs, and that the ecological health of federal rangelands is secured.

As a native Westerner I know the sensitivity of water rights issues and the legitimacy of states' concerns that their water law systems be protected. I also know a red herring when I see one. The attempt to portray the water provisions of the Reid compromise as a massive federal water grab is just that. I hope this clarifies the matter.

Sincerely,

BRUCE BABBIT.

THE NAVAJO NATION,
Window Rock, AZ, October 26, 1993.

Re: Fiscal Year 1994 Interior Appropriations

Hon. DENNIS DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: I am very disturbed about the action on the Fiscal Year (FY) 1994 Interior Appropriations (H.R. 2520). I have learned that a second cloture vote to end debate has been defeated today and that a third cloture vote has been filed. I understand that if the third cloture vote is defeated again, and knowing that the extension for consideration of appropriation measures expires October 28, 1993, the Interior Appropriations stand to remain at the FY 1993 level. This means that a substantial gain in report language and funding for Navajo projects is at stake.

With your help and support, we have worked very hard to include a report language and funding for Navajo projects, including $1,450,000 for former Bennett Freeze area housing improvement, $25,700,000 for the Navajo Indian Irrigation Project (NIP), $250,000 for Navajo Community College (NCC) and other priorities for the Navajo people. Should the FY 1993 funding level remain the same for the upcoming fiscal year, Indian Health Service (IHS) would lose $23 million in Arizona alone and $121 million in operations nationally, with a $150 million decrease in the Bureau of Indian Affairs (BIA). Under BIA, decreases of $55 million in education, $20 million in tribal allocations and $65 million in settlements are expected if FY 1993 levels remain. Schools and tribal colleges will be hit very hard including NCC and our BIA-funded schools. Further, if the FY 1993 funding level remains, it gives discretion to the Interior Department since Senate and House report language is no longer applicable.

I realize that the grazing fee issue is of importance to you, but the FY 1994 Interior Appropriations measure should not be defeated at the expense of funding for much needed projects for the Navajo Nation and Indian Country. The vast majority of programs funded by the Department of Interior go toward natural resources, land and water, except for the "people programs" of the BIA. We stand to lose all of this by a handful of grazing permitees who in number hardly compare to the needs of the Navajo people and members of other tribes.

With your help, we have worked hard to improve the deplorable status of the Navajo people where 56 percent live below the poverty line and the unemployment rate is as high as 50 percent depending on the season. We cannot now reverse the progress we have made for this one issue.

I respectfully urge your vote for the third cloture and ask for your continued support to fund our important Navajo projects. If you have any questions, please call my office at 602-871-6355 or Faith Roessel of our Washington office at 202-775-0393.

Sincerely,

THE NAVAJO NATION
Peterson Zah, President.

INTELLIGENCE AUTHORIZATION

Mr. DECONCINI. Madam President, yesterday, I apprised the Senate of the unfortunate situation we are in regarding the fiscal year 1994 intelligence authorization bill. To briefly recapitulate, several Republican Senators on the Armed Services Committee have placed a hold on the bill solely because the CIA has been unable to locate a particular document that is alleged to exist relating to the nomination of Morton Halperin. His nomination is pending before the Armed Services Committee, not the Intelligence Committee, and it is opposed by Senators on that committee.

I respect their opposition to Mr. Halperin. I respect their desire to get information regarding this nominee. What is disturbing to me is that they have elected to put a hold on a bill that is irrelevant to the nomination of Mr. Halperin.

My good friend and colleague, Senator WARNER, came to the floor yesterday and explained his participation in that hold, and I respect the two hats that he must wear, one as the second-ranking member on the Armed Services Committee, and the ranking member and vice chairman of the Select Committee on Intelligence. He stated yesterday that he now has new information which may help locate the document in question, which the CIA claims they are not able to find. Senator WARNER said he does not intend to lift the hold on the intelligence bill until the CIA has completed another file search.

He has every right to do that, and I respect his right to do that. I only hope he and the other Republican Senators on the Armed Services Committee will seriously consider finding some other vehicle, if they must continue to hold up a piece of legislation.

I am disappointed that the hold is now tied to an entirely new search of CIA files. I was led to believe last week that once the CIA had conducted its search in response to the original October 4 request and the Director of the CIA had provided assurances that requested documents could not be located, the hold would be lifted. Nevertheless, I am delighted to hear that new information has come to light which may help locate the documents. Maybe we can still do this before the Appropriations Committee finishes its conference.

In fact, the CIA last week repeatedly asked for any such information that might exist which would help in its record search and help bring this to a conclusion, and none could be provided. Now that additional information is available, we can have another search. Perhaps after that, there will be a request for another search. Every Senator has the right to make such a request. They have the right to put holds on legislation.

This Senator, in a short time, is going to ask the leadership to bring the intelligence bill up and let those Senators who want to use this bill to stop

the nomination of Mr. Halperin filibuster it, if that is what they want to do. In the meantime, I presume the hold on the intelligence bill will not be lifted. Quite frankly, that is most disturbing to me.

I must say, in candor, I am genuinely disappointed to find myself in this situation. I work very well with Senator WARNER, I respect him and understand that he is in a very difficult situation being on both committees. He is a strong supporter of the intelligence community, and he and I have worked amicably together to establish what I think has been a worthwhile agenda and a worthwhile authorization bill. The bill is literally noncontroversial.

There will be an amendment from the distinguished Senator from Ohio [Mr. METZENBAUM], which we will debate, but he has been most gracious in agreeing to a time limit.

Why is it so important? As chairman of the Select Committee on Intelligence, I cannot stand idly by while the authorization is held hostage because of some nomination in another committee. I reiterate what I said yesterday. There are plenty of alternatives available rather than placing a hold on this bill. These Senators already have a hold on the Halperin nomination, so the nomination is going no place.

So what is gained by holding up this bill? It is clearly not going anywhere until their requests for information are satisfied. I understand that, and I respect their right to obtain the information requested. I would welcome an explanation as to why a hold on a nomination is not sufficient.

In the meantime, the efforts of the Intelligence Committee over the last year are effectively being stymied. The plans we have carefully worked out to provide for an appropriate satellite capability to take us into the next generation are on hold. The funds we have provided to protect this country against new incidents of terrorism are on hold; to counter the proliferation of weapons of mass destruction around the world are on hold; to detect the shipment of narcotics coming to our borders are on hold; to provide information needed by the U.S. military forces to defend themselves and put our awesome military capability to its maximum use are on hold.

Madam President, there has been an intelligence authorization bill passed by the Congress every year since 1977. We are in danger of not having a bill for the first time in the history of the committee, not because the bill is controversial, not because there is any disagreement about the bill, except for the one amendment I mentioned, but because a few Senators see it as a way to force the CIA to produce a single document about a nominee they oppose. A document that the CIA cannot find. A document which, I should point out, has never been seen or read, to my knowledge, by any Senator or staff person.

I urge these Senators to please consider the necessity to let this bill pass so that the Defense appropriations subcommittee that is now in conference—and I serve on that as well—will have an authorization guideline of what money should be spent in the intelligence area.

Madam President, I truly hope Senators will work on this for the best of the country and the institution. It is important that we have an appropriation for the intelligence community that is realistic and one that is properly done in a manner in which this institution is supposed to operate.

I thank my colleagues.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFORM OF THE NATION'S HEALTH CARE SYSTEM

Mr. FEINGOLD. Madam President, let me, first of all, join with the many other Senators who have come to the floor today to express our congratulations to and admiration for the President and First Lady in their continuing effort to reform our country's health care system.

When all is said and done and the bill is signed, as I believe it will be, these two individuals will have to get the greatest share of credit for the power and the strength that they have put behind the effort to change our system. Their efforts have made it possible for me to stand in the Chamber of this Senate and have it be very relevant for the first time to talk about one particular aspect of health care reform.

And that is the issue of long-term care reform as a part of health care reform.

As I had a chance to note earlier, long-term care reform in my view is essential if we are going to talk about true health care reform. But we need to not just offer long-term care benefits in the health care reform package. We also need to make fundamental reforms to our long-term care system if we are going to really be able to call it part of the reform.

At the core of this, this means emphasizing community- and home-based flexible services that respond to individual consumer choice and preference all the way from the initial assessment of the individual right on through to ongoing services involving case managers and others who regularly consult with the consumer and also involving family members to be sure their needs are being met in a satisfactory manner.

Madam President, beyond creating such a system, we also need to ensure that these services are actually accessible to people. This means not only providing adequate service capacity, but we also have to remove some of the system related barriers that exist today. In particular, it means integrating our acute care system with the long-term care services that we hope to provide.

Madam President, this integration is vital. It is especially important in the area that I want to talk about today. That is in the area of hospital discharge. Hospital discharges is a major source of new long-term care consumer.

Unfortunately, individuals being discharged from a hospital who may need some long-term care services all too often end up in a nursing home, not back in their own home or in a community center. But they end up in a nursing home placing a financial burden on families and taxpayers, and limiting consumer choice of long-term care services.

As we strive to build a new long-term care system centered around home and community-based services we have to remove this barrier and establish and enhance the linkage between hospital and other acute care settings and home and community-based long-term care.

The long-term care structure that has evolved since Medicaid began in the mid-1960's has strong systemic incentives for institutional care that is too often to the exclusion of community-based alternatives. Services for long-term care consumers who wish to remain in their homes represent only a fraction of the long-term care budget, and waiting lists for these services are the norm. In my own State of Wisconsin, it is not unusual to find people waiting for these community- or home-based services for as much as 2 years. And some of these people are already in their nineties.

Madam President, one feature of this structural bias is most visible in trying to discharge patients from hospitals, not to the nursing home but to get them back into their own homes where they can have some managed long-term care.

The population most in need of long-term care uses the hospital and acute care facilities of course at a disproportionate rate. In my own State, for example, in a study published by our Wisconsin Department of Health and Social Services, patients aged 65 and older account for nearly one-third of all people who are discharged in hospitals. Indeed, a large number of people over 65 spend some time in a hospital. Nearly 32 people in every 100 over the age of 65 were discharged from a hospital. Looking at older groups, we get to an even more dramatic level. For those aged 75–84, the rate was 38 out of 100; and for those over 85, who are the biggest users of the long-term care services, the rate of this discharge was 45 out of 100.

So what it means is once their acute-care needs are met they do not go back

home, usually. They far too often are sent to nursing homes. That is how the system is set up.

A recent survey done in Milwaukee County shows that more than 70 percent of the older adults discharged from hospitals never return home. It is their last stop. They never get to go back home. Rather, those individuals in need of managed long-term care all too frequently end up in a nursing home.

The single greatest source of admissions into nursing homes now is often the hospital.

In Wisconsin, according to a 1990 report, Wisconsin Nursing Home Utilization, 70 percent of all nursing home admissions are from the hospital—four times the number of nursing home admissions from private homes.

The reasons for this lopsided statistic are really straightforward.

As I mentioned earlier, grossly inadequate funding for community- and home-based long-term care alternatives have resulted in long waiting lists. Even individuals fortunate enough not to be languishing on one of these waiting lists must often wait for some days or weeks before overburdened community case managers are able to perform the necessary screening to make sure they are appropriate for the home care and case planning.

The Medicare DRG and prospective payment system have put a lot of pressures on hospitals, as we all know, to discharge more quickly so they can keep the hospital stay as short as possible. As a result, the uncertain of community- and home-based services, especially when they are contrasted with the pretty easy alternative of an accessible nursing home bed that may be available, makes the choice for the discharge planner very easy. That choice is usually not to have the person go back to the community.

In addition, hospitals and local agencies administering the community- and home-based care program each have their own sets of rules and procedures. Because the community options are relatively new, there has been little time for these two different systems to interact and sort of become familiar with each other. So discharge planners often find it difficult to identify patients who might well be served by community care programs, and thus frequently fail to give these local individuals working in the community enough lead time to effectively react and provide for home- or community-based care in timely fashion.

In sharp contrast, the nursing homes and the hospitals have learned to interact with each other very, very well. There are few if any bureaucratic barriers to discharging a patient from a hospital into a nursing home. Having learned about this as chair of the Wisconsin State Senate Committee on Aging, I became aware of this problem through a series of hearings in 1988, that there might be a way to deal with this problem. So we offered a small provision that was included in the State budget that initiated a pilot program to explore ways to enhance linkages, not between hospitals and nursing homes, but between hospitals and community-based care and home-based care.

I am happy to say that this pilot program has been a success. The primary goal of decreasing nursing home placements from hospital discharges was achieved. On top of those expected results though the pilot program also produced some unexpected additional benefits as the average in-patient cost of participating hospitals dropped as did the average length of stay. For one of the hospitals participating in our pilot program there was a 23-percent drop in the discharge rate to nursing homes, while the average in-patient costs at the hospital dropped by an average of nearly $2,250. At the same time, the average length of stay for the patient population participating in the pilot program dropped by over 2 days.

The hospital also reported improvements in the quality of discharge planning for its most complicated and problematic cases.

Madam President, there are a number of examples that chronicle the success. But let me just give two examples that make it a little more real, a little more human.

First of all, a 65-year-old woman had a medical history that included diabetes mellitus, hypertension, Bell's palsy, chronic obstructive pulmonary disease, congestive heart failure, hypertensive heart disease, atherosclerosis, obesity, cerebral vascular accident, and degenerative dementia. A lifelong introvert, she had dementia that compounded her problems and caused her to fear people with whom she was not familiar.

Without this program, this individual is pretty clearly headed from the hospital to a nursing home. As a participant in the Wisconsin Hospital Link Program she was discharged from the hospital back to her home, and is now cared for by her spouse and grown children, supported by one person who was hired to help care for her.

The other example, a 92-year-old widowed woman named Daisy was hospitalized for a large, deep ulcer on her lower back. Grieving the death of her son a year before, she was receiving less daily contact, and spent long lengths of time lying in bed.

This situation was recognized and this program came to help her and her family. Her grandson and his wife opted to move in with her to act as caregivers in her home, but they each had to work full time and their young daughters attended school.

Needing assistance for dressing changes toward wound care, plus hygiene, ambulating, and transfers, she was discharged with home health aide support Monday through Friday while her family works. Several pieces of durable medical equipment were delivered to her home, most notably an alternating pressure pad positional bed. An RN makes regular assessment of her wound's slow healing process. The family has adapted with great comfort to the aides assigned and Daisy describes herself as doing well.

So again, this is someone who almost surely would have been in a nursing home but was able to stay in the community because of this pilot program.

Madam President, under these scenarios, every party involved in the program, State, county government, Hospitals, and former patients, benefited. As discharge planners have noted, a particularly valuable benefit was the ability of the case managers to monitor the discharge plan in the patient's home.

Often, patients, older patients especially, looked different at home than they did in the hospital. Having a case manager who can monitor the changing conditions and needs is a critical asset for planners and for this program to work.

So, by every measure, this pilot program is beneficial. As a result, in January, on the first day we could introduce bills, knowing that this President and First Lady were going to lead on health care, I took the opportunity to introduce S. 52, which would establish and enhance the very kind of linkages I have mentioned in this talk that we created in Wisconsin and that I think we can replicate throughout the country.

Just as it is vital to include long-term care in an overall health care reform program, so, too, is it essential that we take care to establish and enhance linkages between acute care providers and home- and community-based long-term care as a part of reforming the entire long-term care system. If we are to achieve long-term reform, then we must reform our long-term care system. If we are to succeed in reforming long-term care, then we must ensure that the barriers that currently exist to using home- and community-based services are finally overcome.

To summarize, I encourage those committees that will be working on health care reform legislation to very seriously consider the issue of acute care/long-term care links, and to include, in the legislation they report out, adequate provision to address the system-related barriers that cause an individual who could still be in our community to go to a nursing home instead of to his or her own home after a hospital stay. I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Madam President, did the distinguished majority leader wish to speak?

Mr. MITCHELL. No.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1090

(Purpose: To reduce Federal employment to the levels proposed in the Vice President's Report of the National Performance Review)

Mr. GRAMM. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1090.

Mr. GRAMM. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 16, strike "1994"."; and insert in lieu thereof the following: "1994".

SEC. . REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,095,182 during fiscal year 1994;
(2) 2,044,100 during fiscal year 1995;
(3) 2,003,846 during fiscal year 1996;
(4) 1,963,593 during fiscal year 1997;
(5) 1,923,339 during fiscal year 1998; and
(6) 1,883,086 during fiscal year 1999.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

Mr. GRAMM. Madam President, the amendment before us is, I believe, a very important amendment, because it seeks to achieve a national goal that I believe is supported by the Congress and a national goal which has been set for the Nation by the President. As I am sure all of my colleagues will remember, the President and the Vice President, on the lawn of the White House, with two forklifts behind them holding all of the paperwork related to various forms of regulation, talked about reinventing Government. They presented to the Nation a document —which, as it turned out, we paid twice as much to print than if we had followed the prescription of the document and done it by competitive bidding.

The National Performance Review by the Vice President states two basic objectives. The first objective is contained on page 3 of the preface, and that objective is to reduce the number of jobs in the Federal bureaucracy over the next 5 years by 252,000. That is the stated objective of the administration. I have offered an amendment today for myself; for the distinguished Senator from Iowa [Mr. GRASSLEY]; and for the Senator from Arizona [Mr. MCCAIN], which seeks to strengthen the President's position in achieving this objective and seeks to put the Congress and the Government on record in setting out a procedure to assure that we achieve this goal.

Let me explain how the procedure would work. Basically, we take the President's actual figures for Federal employment for 1994 and 1995, which were set out in the President's budget submission, we take the remaining reduction of 150,000 personnel slots, and on a proportional basis, we reduce the number of full-time-equivalent positions in the executive branch of Government each year to guarantee that, when achieved, these targets would fully implement the President's goal of reducing the number of employees in the Federal bureaucracy by 252,000 between fiscal years 1993 and 1999.

How the process would work is quite simple: We would set out in law, as outlined in the amendment, employment caps for fiscal years 1994, 1995, 1996, 1997, 1998, and 1999. Employment caps for 1994 at a level set by the President as his objective; in 1995 as set by the President as his objective. And the objectives for 1996 through 1999 would simply take the target and assume an equal reduction over the 4-year period.

So we would set in law an employment cap for the executive branch of the Federal Government. We would then give the OMB Director the responsibility for reporting quarterly to the President and to the Congress what the actual full-time employment level of the Federal Government is, and whether or not we are violating the totals that we have set out in law. If, in fact, the actual employment level exceeds the target for that fiscal year, then the OMB Director, on that basis, would report to the President and report to the Congress, and there would be an automatic hiring freeze in the Federal Government until the OMB Director can certify to the President and to the Congress that these actual targets, which the President has set out as a national priority to reinvent Government, have been achieved.

In essence, what we are doing by law is committing ourselves to the President's goal, setting into place by law the requirement that this goal be met, setting up a procedure to assure that if the goal is not met, that we have a hiring freeze that will stay in effect until we have come into compliance.

Let me explain why this is so very important. Quite beyond the objectives of the President to achieve this overall level of reduction in the size of the Federal bureaucracy, let me tell you why it is not going to work, unless we set out in law this objective and unless we have an enforcement mechanism.

I just want to refer back to one vote last night because it is so indicative of the problem we have. When the House voted to kill the SSC, when we had an extensive debate in the Senate where every person who argued against the SSC argued that it should be killed in the name of deficit reduction. The assumption was that by killing the SSC and paying $1 billion of termination costs and lawsuits attendant to that decision, we were actually going to reduce the deficit. Last night, we voted on an amendment that would have guaranteed that the savings from the SSC would have gone to deficit reduction, and that amendment failed.

So, in essence, our entire rhetoric in the debate turned out to be hollow because, as a result of last night's action, we now are not going to see one penny that could have been saved had we taken the savings from the termination of the SSC and applied them to deficit reduction by lowering the overall targets for spending.

Now, here is why we need these caps to help the President achieve this result which the Nation supports. Let us say that as part of the President's objective in reinventing Government, he comes to Texas and says we have to shut down these county offices of these various departments within the Department of Agriculture. We have too many offices, the President says, or the Secretary of Agriculture says, in

Texas, and we are going to consolidate those offices.

I submit that virtually every Member of the Senate, especially those of us from big farm States, is going to be looking at exactly this kind of problem. This is why this amendment is so vitally important.

If I know that the targets have to be met by law, if I know we have set out in law that there is a 252,000 reduction in Federal employment that we have committed ourselves to, and that there is hiring freeze when these targets are not met, I can judge these proposals on their merits. I can support them or oppose them. But one thing I will know for sure, and that is that we are not going to shut down a farm credit office in Texas and open up some other office in Iowa or in Massachusetts. I know that if, in fact, we engage in this consolidation, as painful and unpleasant as it may be, at least we are not shifting around personnel slots; at least I know that the sacrifice that we make would not end up being an addition of new personnel slots somewhere else.

Let me also hasten to add here that what we are doing is simply allowing natural attrition to occur, and, as the President has made clear, in any consolidation, a maximum effort would be made to see that people who are in positions that are eliminated have the first crack at any other position within the Government.

So, basically, what this amendment does is it locks into law a steady achievement of the President's objective in his reinventing Government initiative. It has an enforcement mechanism so that if we violate it, we are notified, the President is notified, and there is an overall freeze on hiring in the executive branch of the Federal Government which stays in effect until the OMB Director certifies that the objective has been met.

The great strength of this process is that we do then have a benchmark to measure success; we have an enforcement mechanism to discipline both the Congress and the executive branch. And each of us knows, as individual sacrifices occur in our own States, as offices are consolidated in our own States, as our own people are forced to adjust to the changing reality in terms of reinventing Government, we can then know that we simply are not making a sacrifice in Texas so that we can expand an office in Arkansas.

I think, in order to make this work, as difficult as it is going to be, we need some kind of guarantee. And short of that kind of guarantee, it is going to be very difficult or impossible to achieve the President's objectives. That is why I have offered this amendment, as part of a bipartisan effort, to see that we achieve the goal that the President stated and that I strongly support, and that I believe the vast majority of Republicans in the Senate support the objective of reinventing Government, of making the Government smaller. I decided to start today, in conjunction with my cosponsors, by focusing in on the part of the President's plan which is easiest to understand; and that is, the President, in looking at his objectives, believes that he can reduce employment by 252,000. He has set it out as a goal. I say, let us make it our goal. Let us make it the Nation's goal. And let us achieve it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, first of all, I commend my colleague from Texas for his initiative in bringing this concept to the floor and doing it through this very specific amendment and, of course, as he said, I am joining him in offering it, and I am pleased to do that.

This is a real opportunity, Madam President, for Members of this body to make sure that decisionmaking in Government and the carrying out of that decisionmaking, that performance, is commensurate with the rhetoric of the policy.

I think too often we are not put to tests often enough about statements we make and policies we adopt—whether it be in the legislative branch of Government or the executive branch of Government—as to whether or not we follow through and carry out.

Through this amendment, I think that we are putting all of us to the test; not just the Vice President, because he is leading the charge on reinventing Government; not just the President, because he is the Chief Executive and he is working and supporting the Vice President; but those of us in the Congress, as well. Because if jobs are said to be saved, the implication is money is going to be saved, and we tell the public that it seems to me that we ought to make sure to the best of our ability that happens.

So it is from that standpoint that I see this Gramm-Grassley amendment as a constructive approach. I am one who, of course, has often spoken on the floor of this body in support of the administration's National Performance Review, in support of its general thrust, if not in all of its details. And I have even questioned to some extent its limited scope. But it is a start, a very good start, and we ought to help it along and even expand upon it.

This amendment is not an expansion upon the National Performance Review. It is just a motion made by this body, hopefully taken by this body, that is going to see that what limited review we have thus far is carried out.

I hope that this is only a first step to real, fundamental changes in our Government as a result of the National Performance Review. I have commended the President and the Vice President for their leadership and for their positive beginning in reinventing Government.

To me, this amendment can be characterized in two ways: First, it is the teeth that ensures that we get the reforms desired by the President and the Vice President. Second, it puts the pressure on the Congress to follow through. Congress has a very clear choice. We can either become the harbingers or the resisters of reform.

Madam President, I view this effort as an extension—as I have said before, when I think I have spoken out on the NPR—I consider it an extension of my work to reform defense management; in a sense, to reinvent defense.

I started my efforts to reform defense in 1983, when some challenged the feasibility of even a freeze of the defense budget. It became clear to me from that early time that true reform needed teeth. And there were two ways to bring this about.

First, the level of funding would have to be lowered by an amount commensurate with the reform. If it were not, the targeted activity would grow right back again, and absorb the original budget level. You would then have the same level of inefficiency as you started with.

Second, those employees once performing the functions that are reformed away in defense must also be reformed away. That is the only way to ensure the integrity of the decision to reform or kill a program.

Now let me mention an important point here. What do I mean by "reforming away those employees?"

The President has set forth a credible program for early retirement and buyouts. Only as a last resort would the RIF process be used.

If we in Congress cap the overall level, it is important that we give the President the tools he needs to accomplish the reduction. We should be willing to trade off caps for the flexibility for the President to do the job effectively.

This Gramm-Grassley amendment would provide the second of these two sets of teeth; that is, lowering the number of workers to match the reform. We will address the first set of teeth another day, that dealing with funding.

What this amendment does is it ensures the integrity of the reforms put forth by the President and the Vice President. And again, I must stress my support for what they are trying to accomplish overall through the National Performance Review.

The real question, in my view, is whether the Congress has the stomach to swallow reform. And it cannot swallow reform without teeth. Rhetoric aside, this amendment is where the rubber meets the road.

Many of my colleagues clamor for reform or speak in support of reform. The American people can hear us, but they

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will not believe us until they see the whites of our "pearly whites." They want to see reform with teeth. And not false teeth—real teeth. This amendment gives us a chance to vote for real reform, not false reform.

Madam President, Senator GRAMM, has done an eloquent job of explaining what our amendment would accomplish. I cannot add to what he has said. Let me just reiterate that I am pleased to join with my colleague from Texas. Our purpose is to help ensure that the reforms requested by the administration are enacted exactly as envisioned, and that Congress support—and not impede—accomplishment of those reforms.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, we are prepared to accept the amendment.

Mr. GRAMM. If the distinguished majority leader will yield, we would be delighted with that, but we would like to have a rollcall vote.

Mr. MITCHELL. The Senator is entitled to that. I simply say to him that it is my practice, as majority leader, to minimize unnecessary rollcall votes when Senators are absent due to important other business. Two Republican Senators, Senators DURENBERGER and MCCONNELL, are necessarily absent. Two Democratic Senators, Senators FEINSTEIN and BOXER, have left a short while ago to go to California, where there is a serious, as you know, national tragedy occurring with the fires there.

I see no reason to punish them by having a vote that is not necessary. But that is the Senator's right, and if he wants to have a vote, we will have a vote.

Mr. GRAMM. If the distinguished majority leader will yield further, let me have a moment to think about it.

Mr. MITCHELL. Fine.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I understand from a check in our cloakroom that we will have a recorded vote later today on final passage of the unemployment extension bill. And so on that basis, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senate majority leader.

Mr. MITCHELL. Mr. President, I simply want the RECORD to note—and I, of course, have supported the request for rollcall vote—that I have made it a practice when Senators are necessarily absent not to have rollcall votes that are not necessary. The Senator from Iowa has always been very concerned about rollcall votes and I have tried to accommodate him and the Senator from Texas and others.

It is true that there will be another vote but those four Senators are missing a vote here that I believe is unnecessary. But the Senator has a right to request a vote and, therefore, I support his request.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Ms. BOXER], and the Senator from California [Mrs. FEINSTEIN], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

I further announce that the Senator from Kentucky [MCCONNELL] is absent due to an illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 82, nays 14, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—82

Baucus	Faircloth	Mack
Bennett	Feingold	Mathews
Biden	Ford	McCain
Bingaman	Gorton	Mitchell
Bond	Graham	Moseley-Braun
Boren	Gramm	Moynihan
Bradley	Grassley	Murkowski
Breaux	Gregg	Murray
Brown	Harkin	Nickles
Bryan	Hatch	Packwood
Bumpers	Hatfield	Pell
Burns	Heflin	Pressler
Campbell	Helms	Reid
Chafee	Hollings	Robb
Coats	Hutchison	Rockefeller
Cochran	Inouye	Roth
Cohen	Jeffords	Sasser
Conrad	Johnston	Shelby
Coverdell	Kassebaum	Simpson
Craig	Kempthorne	Smith
D'Amato	Kerrey	Specter
Danforth	Kohl	Stevens
Daschle	Lautenberg	Thurmond
DeConcini	Leahy	Wallop
Dodd	Levin	Warner
Dole	Lieberman	Wofford
Dorgan	Lott	
Exon	Lugar	

NAYS—14

Akaka	Kerry	Riegle
Byrd	Metzenbaum	Sarbanes
Domenici	Mikulski	Simon
Glenn	Nunn	Wellstone
Kennedy	Pryor	

NOT VOTING—4

Boxer	Feinstein
Durenberger	McConnell

The amendment (No. 1090) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. KASSEBAUM. Mr. President, we are about to extend for a fifth time Federal unemployment benefits for displaced workers. These benefits are important to many families, and I believe we should extend them. But we also should pay for them—as the law requires that we do—rather than passing the buck to our children in the form of more national debt.

CBO estimates this extension will cost roughly $1.1 billion in fiscal year 1994. The bill before us purports to offset that cost through two cost-saving reforms spread out over 5 years. In other words, we will once again spend money today and promise to pay for it by cutting spending in the future.

Moreover, one of the offsetting provisions, the requirement that States profile all new claimants for benefits, may well be nothing more than smoke and mirrors. This provision is supposed to offset about $800 million of the cost of this extension; however, CBO estimates that implementing the proposal will cost almost $900 million. We may well lose money on this spending cut.

Mr. President, we simply cannot afford any longer to play budget games and gamble on future savings. If we are going to extend unemployment benefits, we should pay for them—we should pay for them today, and we should pay for them with real cuts in other spending.

These unemployment benefits are very important to many Americans including many in my home State of Kansas. For that reason, I initially cast my vote yesterday to extend them, despite the fact that they are financed by running up the debt.

But as I spoke with my colleagues during that debate, it became clear to me that many in both political parties share my deep concern about paying for these benefits. There was a sense of optimism among some that we could reach agreement on real cuts to pay for this new spending. Because of the tight vote margin, I had hoped I was in a position to encourage negotiation. For that reason, I switched my vote in the hope that we could reach a financing agreement.

Since yesterday's vote, I have raised this matter with a number of Senators, including the distinguished chairman of the Finance Committee, and it is now clear to me that no such agreement is possible. I deeply regret that we will be allowed only two options: Support unfunded benefits, or support no benefits at all.

Given that choice, I will today cast my vote to extend unemployment benefits—the immediate human cost for many families is simply too high to do otherwise.

But I want to make clear my belief that we should not be facing this difficult choice. There are many real spending cuts that could have been included to pay for this package. For example, Vice President GORE has included a number of proposed reforms in his National Performance Review that we could have considered. Indeed, some of these proposals would fall within the jurisdiction of the Finance Committee—the same committee that sent us the debatable financing mechanisms included in the bill. For example, the Vice President has proposed:

Amending the Health Care Financing Administration's contracting authority to allow for competitive contracting: 5-year savings—$985 million.

Providing electronic intergovernmental tax filing, reporting, and payments processing. A similar proposal by the Grace Commission would have saved roughly $2.1 billion over 3 years.

Consolidating 55 categorical grant programs into 6 broad flexible grants—in job training, education, water quality, defense conversion, environmental management, and motor carrier safety. A similar proposal by the Grace Commission would have saved roughly $1 billion over 3 years.

Improving Social Security Administration disability claims processing to reduce backlogs and avoid paying benefits to individuals who are no longer disabled: 5-year savings—$4 billion.

Mr. President, I am not passing judgment on the merits or demerits of these individual proposals—I merely point out that they are strongly advocated by the Vice President.

I also recognize that these programs involve multiyear savings. But surely there is some combination of proposals such as this that could have yielded sufficient savings in fiscal year 1994 to offset the unemployment benefits extension.

Today marks the fifth time we have extended these benefits, and each time we have had to waive the Budget Act to do so. That is simply irresponsible. I am deeply concerned that we are on the road to transforming unemployment benefits into a new entitlement program and that, like our existing entitlements, it will continue to grow unchecked.

By our vote today, we will charge at least another $800 million to the national debt. I will vote in favor of the extension because these benefits are so very important to those who have lost their jobs. But I want to make very clear my displeasure that we have not anted-up to pay the bill.

Mr. President, there is no doubt that the passage of the emergency unemployment benefits will be very important to many families. I believe it should be extended and I will vote to do so.

I was very disappointed that in many ways our only two options were to support unfunded benefits or to support no benefits at all.

Just briefly I will say why I think this is troubling.

Over the last 2 years we have extended emergency supplemental unemployment benefits to the tune of $24.5 billion just in the last 2 years. This was an additional $1.1 billion for this fiscal year 1994.

It troubles me, Mr. President, that we are really starting down the path of a new entitlement for Federal emergency unemployment insurance. I think that this should trouble us all.

There was not time to work out an agreement on funding for this additional $1.1 billion. But I would hope that we would take a look at recommendations that the Vice President has proposed for reorganization of Government and before we have to again support expanding unemployment benefits or any other emergency funding, we look at these proposals and see if we cannot indeed enact them and find the savings that the Vice President has projected just, for example, amending the Health Care Financing Administration contracting authority to allow for competitive contracting, provide electronic intergovernmental tax filing, reporting and payments processing, consolidating 55 categorical grant programs into 6 broad flexible grants, and job training, education, water quality, defense conversion, environmental management, and motor carrier safety.

This is a proposal that has estimated a savings of $1 billion over 3 years, and is just eminently, I think, sound and sensible as far as effective and better accountable Government program improving Social Security Administration disability claims processing, to reduce backlogs and avoid paying benefits to individuals who are no longer disabled.

Mr. President, these are just some suggestions which I believe have merit which I know many here would like to see thoughtfully considered and not really just continually spoken to but action taken to the relevant committees.

So, just to conclude, these were the things that I think troubled many of us who did believe that unemployment benefits should be extended but also worry about a path that we have started down that has become very different from the initial emergency support program that we were providing States for unemployment insurance. If we are not to take some concerted action now, we are going to face being in a similar situation, I am afraid, in the future.

I yield the floor.

INDIAN TRIBAL GOVERNMENTS AND EMPLOYEES

Mr. DURENBERGER. Mr. President, I had planned to offer as an amendment to the pending legislation the text of S. 391, sponsored by Mr. MCCAIN and which Mr. CAMPBELL and I have cosponsored. That legislation would address the serious problems faced by Indian tribal governments and their employees with respect to the State-Federal unemployment compensation system by providing for uniform treatment of Indian tribal governments and their wholly owned subsidiaries on a par with States, localities, and nonprofit entities.

Mr. President, one would think that Indian tribal governments would be covered under the same unemployment compensation rules as States, municipalities, and nonprofit organizations. In fact, Indian tribal governments are significantly disadvantaged in comparison to those entities. Although practices vary around the country—some Indian tribal governments are considered by the States to be completely exempt from the UC system at the State level, some tribal governments are permitted to elect reimburser status, as if they were governments, and some tribal governments have chosen not to be covered—under Federal law, Indian tribal governments are required to be treated for unemployment tax purposes, if they are covered at all, as if they were profit-making entities. This treatment is, in my view, inconsistent with their responsibilities and status under Federal law.

There have been some questions raised regarding the implementation of a policy putting tribal governments on a par with States and local governments for FUTA purposes that need to be considered. I appreciate the cooperation of the Senator from New York and the staff of the Committee on Finance in this regard. But because of the pending assessment situation in Minnesota—and the possibility that assessments could be made against other tribes—those questions ought to be addressed with reasonable speed.

Accordingly, Mr. President, I would ask the Senator from New York whether he can expect to address these issues at an early date.

Mr. MOYNIHAN. Mr. President, the Senator has raised some important questions, and I can understand his special interest in the situation that has arisen in his State.

The matters he has just addressed affect policies under the jurisdiction of the Treasury and Labor Departments and we have begun discussions with them. The agencies have raised concerns about changing the status of tribal governments for FUTA purposes. These concerns, and the views of other Indian tribes and the several States, must be carefully considered. Nevertheless, I would hope that we could reach some consensus on an appropriate way to address the issues raised by the Senator.

Mr. WELLSTONE. I, too, want to express my continued strong interest in changing the treatment of Indian tribes under the Federal unemployment compensation program to put them on par with States and local governments. I have worked with Congressman PETERSON and Senator DURENBERGER on this issue for some time.

Early this year, I wrote to the Treasury and Labor Departments asking for their views on this legislation. Several weeks ago, I again asked representatives from both departments to come to my office to explain their views on the bill introduced by Senator MCCAIN, and other alternative solutions, in greater detail. Frankly, I had hoped that we would have been able to address this problem earlier this year. I requested at that meeting formal written expressions of their views on this issue, which I have not yet received.

The special status of Indian tribal governments must be taken into account as potential solutions to the problems are developed to ensure the fair treatment of such organizations under the act. I agree with Senator DURENBERGER that the treatment of tribal governments should be similar to that of States, localities, and nonprofit entities. It is my view that a permanent solution can be developed which ensures coverage for employees of Indian tribal organizations while meeting the concerns expressed by the Department of the Treasury, the Department of Labor, and various States about its fair implementation.

I will continue to work closely with you, Mr. Chairman, and with my distinguished colleague from Minnesota, Senator DURENBERGER, toward that end. I hope we can develop such a permanent solution, and that it would then be considered by the Finance Committee very soon.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993—H.R. 3167

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that a description of the Unemployment Compensation Amendments of 1993, H.R. 3167, as passed by the House of Representatives be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF THE UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993, H.R. 3167

I. EMERGENCY UNEMPLOYMENT COMPENSATION [EUC] PROGRAM

Present Law.—The Federal Emergency Unemployment Compensation (EUC) program was first enacted in November 1991 and extended most recently by P.L. 103-6 on March 4, 1993. The EUC program, which expired on October 2, provides workers who have exhausted their regular State unemployment benefits (and who began receiving EUC benefits on or before October 2) with 15 weeks of benefits in States with the highest unemployment and 10 weeks of benefits in all other States. States with adjusted insured unemployment rates (the average of the current week and the preceding 12 weeks) of at least 5 percent, or total unemployment rates (6-month moving average) of at least 9 percent, are eligible to pay the higher number of weeks of benefits. At present, only four States (Alaska, California, Rhode Island, and West Virginia) are eligible to provide 15 weeks of benefits.

The statute provides for a decline to 13 and 7 weeks of benefits if the national unemployment rate falls below 6.8 percent for two consecutive months. The rate for the months of August and September was 6.7 percent.

The EUC program expired on October 2. Unless the program is extended, workers who exhaust their regular State benefits after that date will be ineligible for EUC benefits. Workers who began receiving EUC benefits on or before October 2 will be entitled to the full number of weeks of benefits for which they were found eligible. However, no benefits are payable after January 15, 1994.

Individuals who have exhausted their rights to regular State benefits either because their benefit year has expired or because they have received all of the benefits to which they are entitled, may elect to receive either EUC benefits or regular State benefits under any new benefit year that has been established.

Proposed Change.—The EUC program is extended through February 5, 1994. Workers who exhaust their regular State benefits after October 2 will be eligible for up to 13 weeks of benefits in States with the highest unemployment. In all other States they will be eligible for up to 7 weeks of benefits. Workers who exhaust their regular State benefits after February 5 will not be eligible for EUC benefits. Workers who begin receiving EUC benefits before that date will be entitled to the full number of weeks of benefits for which they were found eligible. However, no EUC benefits will be payable after April 30, 1994.

The provision giving individuals the option to choose between EUC benefits and regular state benefits is repealed. After the date of enactment, no new EUC options will be exercised. However, individuals who began or continued EUC based on an option exercised before October 2, 1993, may continue to receive EUC until exhaustion of their EUC account.

II. ADDITIONAL UNEMPLOYMENT COMPENSATION FOR RAILROAD WORKERS

Present Law.—Workers in the railroad industry are eligible for a separate unemployment compensation program that provides benefits basically equivalent to those provided under regular State unemployment compensation programs. Railroad workers with under 10 years of railroad service are not eligible for extended benefits. The UC law temporarily provides extended benefits to railroad workers with under 10 years of service and additional weeks of extended benefits to other qualifying railroad workers in order to maintain comparability with the EUC benefits provided to workers in other industries.

Proposed Change.—Eligible railroad workers will continue to receive the additional benefits provided under the EUC law for other workers.

III. WORKER PROFILING AND REEMPLOYMENT ASSISTANCE

Present Law.—P.L. 103-6, enacted March 4, 1993, directs the Secretary of Labor to establish a program for encouraging the adoption and implementation of State systems of profiling all new claimants for regular unemployment compensation. These systems are to be used to determine which claimants might be most likely to exhaust their regular unemployment compensation benefits and might need reemployment assistance services to make a successful transition to new employment.

Proposed Change.—Each State's unemployment agency is required to establish a profiling system as described above, and to refer claimants identified as needing services to reemployment services available under any State or Federal law. The State agency is also required to collect follow-up information relating to the services received by claimants and the employment outcomes for such claimants subsequent to receiving services, and to use this information in making identifications under the profiling system. States that fail to comply substantially with these requirements may be subject to withholding of administrative funds until the Secretary is satisfied that there is no longer an such failure.

In addition, the bill provides that as a condition of eligibility for unemployment compensation benefits, a claimant who has been referred to reemployment services pursuant to the profiling system must participate in these or similar services unless the State agency determines that the claimant has completed such services, or there is justifiable cause for failure to participate.

Reemployment services will include job search assistance and job placement services, such as counseling, testing, occupational and labor market information, assessment, job search workshops, job clubs and referrals to employers, and other similar services.

The Secretary of Labor is directed to provide technical assistance and advice to assist the States in implementing the profiling system, including the development and identification of model profiling systems.

Not later than three years after the date of enactment, the Secretary of Labor is required to report to the Congress on the operation and effectiveness of the profiling system and the participation requirement, with such recommendations as the Secretary determines to be appropriate.

Effective Date.—The profiling requirement is effective one year after the date of enactment.

IV. TECHNICAL AMENDMENT TO UNEMPLOYMENT TRUST FUND

The bill restores language in section 905(b)(1) of the Social Security Act that was inadvertently changed by P.L. 102-318. This section provides for the transfer of funds to the State administration accounts.

V. EXTENSION OF REPORTING DATE FOR ADVISORY COUNCIL

Present Law.—P.L. 102-164, the Emergency Unemployment Compensation Amendments of 1991, provided for the establishment of a quadrennial advisory council on unemployment compensation to examine the purpose, goals, and functioning of the unemployment compensation system, and to make recommendations for improvement. The first report is due by February 1, 1994.

Proposed Change.—The due date for the first report would be delayed for one year. Subsequent reports would be due the third year following the establishment of the council, rather than the second year.

VI. INCREASE IN SPONSORSHIP PERIOD FOR ALIENS UNDER THE SUPPLEMENTAL SECURITY INCOME [SSI] PROGRAM

Present Law.—The SSI program provides Federal benefits to aged, blind, and disabled

individuals whose income and resources are below specified amounts. To be eligible, an individual must be either a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

Under current law, the income and resources of an alien's sponsor are considered in determining the alien's eligibility for SSI benefits. A sponsor is an individual who has signed an affidavit of support as a condition of the alien's admission for permanent residence in the United States. This "deeming" of income and resources applies for 3 years after the alien's entry into the United States. After 3 years, the alien's eligibility for SSI is determined without regard to the income and resources of the sponsor. The "deeming" requirement does not apply with respect to an individual who becomes disabled after entering the United States.

Proposed Change.—The period during which the sponsor's income and resources would be "deemed" to the alien would be extended from 3 to 5 years.

Effective Date.—The provision would be effective January 1, 1994 through fiscal year 1996. The provision would not apply in the case of individuals who are eligible for SSI for December 1993 (or whose eligibility is suspended but not terminated) and whose 3-year deeming period ended prior to January 1994. Thus, individuals who apply for SSI benefits on or after January 1, 1994, and individuals on the SSI rolls (because their sponsors' deemed income and resources do not make them ineligible) whose 3-year deeming period has not ended by January 1, 1994, would come under the 5-year rule.

VII. COST ESTIMATE

The Congressional Budget Office [CBO] estimates the cost of the EUC benefit extension at $1,070 million in fiscal year 1994. The profiling provision is estimated to reduce unemployment benefits by $764 million over the 4-year period 1995–1998. The provision relating to aliens receiving SSI benefits is estimated to reduce SSI and Medicaid outlays by $330 million over the 3-year period 1994–1996.

Mr. BYRD. Mr. President, for 2½ years now, the American economy has been, technically speaking, in an economic recovery. Yet, unemployment is hardly any lower today than it was in March of 1991 when the last recession officially ended. Despite some improvement in recent months, unemployment remains stubbornly high. Nowhere is this more true than in the State of West Virginia. Unemployment there continues to hover near double-digit levels, standing at 9.6 percent in August—the highest unemployment rate in the Nation.

The problem, however, is not just the fact that the overall rate of unemployment remains unacceptably high; it is that the number of long-term unemployed is so high. Of the 8.5 million Americans unemployed today, more than 1.7 million—one of every five—have been out of work for 27 weeks or more.

As a result, we find ourselves with little choice but to enact yet another extension of emergency unemployment benefits. When we enacted the first such bill in November of 1991, the number of long-term unemployed stood at just under 1.4 million. To repeat, today that number stands at 1.7 million. Although we all know that an unemployment check is no substitute for a paycheck, now is not the time to cut off assistance to those who continue to bear the heavy burdens associated with long-term unemployment.

To those in West Virginia who might exhaust their regular State unemployment benefits between October 2, 1993, and February 5, 1994, the bill before the Senate, H.R. 3167, will provide 13 weeks of emergency unemployment compensation benefits. The same will be true in other high unemployment States. For those in States not suffering from such high unemployment, 7 weeks of additional benefits will be made available.

The additional benefits provided under this bill are paid for by reductions in spending elsewhere. As a result, enactment of this bill will not result in an increase in Federal spending, nor will it cause our deficit to grow. This legislation thus represents a fiscally responsible effort to assist those in desperate need of a helping hand, and I am pleased to support this important measure.

SOME QUESTIONS ABOUT THE LEGISLATION

Mr. RIEGLE. Mr. President, I would like to raise some questions about this legislation with the distinguished chairman of the Finance Committee.

Mr. MOYNIHAN. I would be glad to discuss this legislation with my colleague from Michigan.

Mr. RIEGLE. When emergency unemployment compensation expired on October 2, the rate of Michigan workers filing for emergency unemployment compensation benefits was 2,500 per week. The past few weeks have been understanding frightening for the families of the estimated 7,500 Michigan workers who could no longer file for emergency unemployment compensation—not knowing when, or if, the Government would act to extend this critically needed program. I think that we can all agree that the compromise reached was a different one; the heated debate and lengthy legislative action in the other body bears testimony to that fact. I think that we can also agree that finding adequate funding for the 4 month extension was an arduous challenge for the administration.

I have some concerns about the new profiling proposal included in this measure. I have the utmost confidence in the Secretary of Labor and fully realize that the structure of the profiling program will be developed further under his guidance. I would like to raise a few of the issues that will deserve his attention.

In the area of worker compliance with profiling requirements, the bill specifically recognizes a State's right to exempt claimants where there is justifiable cause for the claimant's failure to participate. To prevent a patchwork quilt of varying State justifiable cause criteria, some reasonable standard exemptions would be useful. While there is a compelling interest in complete participation in the profiling program, many claimants are understandably concerned that certain circumstances, such as State work search waivers, will not be recognized as justifiable cause under this new program.

Another provision which will be especially helpful to those of us whose States have experienced consistently high unemployment is the Secretary's reporting provision. Secretary Reich has been such a strong advocate on employment issues that I suspect he may choose to go beyond what this bill requires, and provide Congress with detailed data regarding demographic and industry-specific claimant impact and reemployment. I hope that the Secretary will take advantage of this opportunity to explore the real-life results of our new profiling system, to help those of us in Congress ensure that this program is fair and equitable to all claimants.

In order for any profiling program to work, we must require that claimants participate as much as possible. It may take a little time for claimants to adjust to this completely new system, and there may be some who will temporarily fail to participate in the profiling requirements. I hope that the Department of Labor will extend a second chance to those claimants who have initial misunderstandings about this new program, and its technical requirements, and welcome them back into the system. By reaching out and establishing the profiling process as a true partnership between Government and workers, the Department may exceed even their own expectations for the program.

I am confident that these concerns can be effectively addressed by Secretary Reich during the next few weeks, and I look forward to working with him on these matters.

Mr. MOYNIHAN. I appreciate the Senator's concerns in this area. He raises issues fully deserving of the Secretary's attention.

WE CAN DO BETTER; WE SHOULD DO BETTER

Mr. DOLE. Mr. President, here we go again. For the second time this year, the Senate is debating an extension of unemployment benefits that is not paid for.

Since November 1991, Congress has acted to extend unemployment benefits four times, with the most recent extension coming in March 1993. The first three extensions, under President Bush, were paid for each year consistent with the budget law. But, the first extension under President Clinton was declared an emergency and added $5.7 billion to the deficit. I voted against that extension of benefits.

THE FACTS ABOUT H.R. 3167

The Congressional Budget Office—the President's own hand-picked budget

scorekeeper—says that all of the new spending in H.R. 3167—a total of $1.07 billion—would occur in 1994, but the bill will not be paid for until 1998. CBO projects that in fiscal year 1994, this bill would increase the deficit by more than $1 billion.

As if that were not bad enough, the major offset contained in this bill is a gimmick. Essentially, the bill claims entitlement program savings from a discretionary spending increase that appropriators must finance in future years under the discretionary spending cap.

The new profiling system created in this bill is effectively an unfunded Federal mandate on the States. The bill requires States to establish a new worker-profiling system which will cost the States an estimated $897 million over 5 years to administer. The problem is that, in reality, these administrative costs are only covered in the first year. In the future, States will have to seek appropriations to cover the administrative costs of this new program.

Back in September, OMB Director Panetta said—and I quote—

> We're not going to submit [a proposal to extend unemployment benefits] * * *, unless it's paid for.

OMB Director Panetta was one of the authors of the original pay-as-you-go requirements. He knows what they mean. Perhaps, that is why the administration never submitted a formal proposal to extend these benefits.

Mr. President, Senator NICKLES and I worked in good faith with the chairman, the majority leader, and representatives of the administration to try to find a solution. We were unable to find a mutually acceptable way to pay for the bill, but we were able to make a positive contribution to this debate. We crafted a sense of the Senate resolution that puts the Senator on record on two important points: The first is that, based on current economic forecasts, we believe this will be the last extension of the Emergency Unemployment Compensation Program. Second, we believe the administration should come forward with a proposal to reform the Unemployment Compensation Program at the earliest possible date. This resolution was adopted with bipartisan support and the support of the administration.

The final point I would make is this: We will never get the deficit under control until we are willing to control entitlement spending. It is no secret that this bill has the votes to pass, but it is important to establish a record. We hear a lot of tough talk about the deficit, but actions speak louder than words.

Mr. President, we can do better. We should do better. The least we should be able to do is prevent this spending increase from adding to the deficit.

Mr. BIDEN. Mr. President, I am relieved that we are finally about to pass an extension of long-term unemployment benefits.

In my own State of Delaware, we know how important this legislation is. In recent years, we have been more fortunate than many other States, having an unemployment rate that remains below the national average. Nevertheless, we have not been immune to the forces at work throughout our country's economy.

In fact, in recent weeks, Delaware's unemployment rate rose substantially, to the highest point this year, 5.4 percent. This amounts to a 4-percent increase in the number of Delawareans out of work.

These unhappy statistics are just more proof that our Nation's economy is undergoing fundamental changes, changes that challenge the assumptions and policies of the postwar era. Among these changes, Mr. President, it is particularly frustrating that we continue to see layoffs by our country's major corporations even as falling interest rates and healthy corporate profits give us reason to believe that we are entering a period of stronger growth.

For every two steps forward our economy takes, these continuing layoffs force us one step back.

And, Mr. President, for each of those impersonal numbers we read every week, there are hundreds of thousands of Americans whose families are thrown into the tragic circumstances of unemployment. More than at any other time, Americans find themselves unemployed for prolonged periods.

That is why this bill is so necessary, and why I opposed amendments that would only slow down the assistance unemployed Americans so desperately need.

But now, Mr. President, two important tasks remain. The first is to overhaul our Unemployment Insurance Program to assure that we no longer must drag out this process through a continuing series of temporary fixes. One benefit of this most recent debate has been the recognition of this need.

The second, and more important task, is to overhaul the economic policies of the postwar period—and the assumptions behind them—that are now so obviously out of date. To restore our economy to the healthy levels of growth we need will require more imagination, and more fundamental choices, than extending the funding for unemployment programs.

THE UNEMPLOYMENT COMPENSATION EXTENSION BILL

Mr. MACK. Regrettably, I must vote against the bill in the form it has been presented to the Senate. It is unfortunate because I support the extension of emergency benefits. There are many needy Americans who desperately need this unemployment assistance.

However, the problem with the legislation in front of the Senate today is the way which it pretends to pay for cost of this relief. In fact, this legislation requires State governments to create new reemployment services at substantial costs to State taxpayers. It's just wrong to add new unfunded mandates on States.

It is clear the majority and the administration could pay for this legislation if they chose to do so. If this legislation is a priority—and I think it should be—then there ought to be lower priority spending which could be eliminated to pay for it. In fact, just yesterday, the administration sent to the Congress a package of reforms, including cost cutting measures, which could have easily paid for this legislation.

If Congress wants to help Americans in a responsible manner, we should stop deficit spending.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. WELLSTONE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mrs. BOXER], and the Senator from California [Mrs. FEINSTEIN], are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mrs. FEINSTEIN], would vote "Aye."

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER], is necessarily absent.

I further announce that the Senator from Kentucky [Mr. MCCONNELL], is absent due to an illness in the family.

The result was announced—yeas 76, nays 20, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—76

Akaka	Cochran	Harkin
Baucus	Cohen	Hatch
Bennett	Conrad	Hatfield
Biden	D'Amato	Heflin
Bingaman	Daschle	Hollings
Bond	DeConcini	Hutchison
Boren	Dodd	Inouye
Bradley	Domenici	Jeffords
Breaux	Dorgan	Johnston
Bryan	Feingold	Kassebaum
Bumpers	Ford	Kennedy
Burns	Glenn	Kerry
Byrd	Gorton	Kohl
Campbell	Graham	Lautenberg
Chafee	Grassley	Leahy

Levin	Nunn	Shelby
Lieberman	Packwood	Simon
Lott	Pell	Simpson
Mathews	Pryor	Specter
Metzenbaum	Reid	Stevens
Mikulski	Riegle	Thurmond
Mitchell	Robb	Warner
Moseley-Braun	Rockefeller	Wellstone
Moynihan	Roth	Wofford
Murkowski	Sarbanes	
Murray	Sasser	

NAYS—20

Brown	Faircloth	Mack
Coats	Gramm	McCain
Coverdell	Gregg	Nickles
Craig	Helms	Pressler
Danforth	Kempthorne	Smith
Dole	Kerrey	Wallop
Exon	Lugar	

NOT VOTING—4

Boxer	Feinstein
Durenberger	McConnell

So the bill (H.R. 3167), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. MOYNIHAN, Mr. BAUCUS, and Mr. PACKWOOD conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation in completing action on this important measure. Unfortunately, it took a lot longer than should have been the case. In any event, we have completed action.

Rollcall votes remain possible today, as there are other measures upon which action must be taken before we recess for the day. I repeat, so that Senators are on notice and fully aware, that rollcall votes remain possible today, as we will have to take action on other measures before recessing for the day.

(At the request of Mr. MITCHELL, the following statement was printed in the RECORD.)

• Mrs. FEINSTEIN. Mr. President, for the vote on final passage of H.R. 3167 I was en route to California to lend my assistance with the Federal response to the catastrophic fires in southern California. Had I been present, I would have voted "aye" on passage of the unemployment benefits extension bill.•

EXPRESSING THE SENSE OF THE SENATE THAT THE DEPARTMENT OF LABOR SHOULD PROVIDE RESOURCES TO COVER CERTAIN COSTS

Mr. MITCHELL. I now ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 159, submitted earlier today by Senators COVERDELL and KEMPTHORNE, that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 159) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 159

Resolution expressing the sense of the Senate that the Department of Labor should provide adequate resources to the States to cover the costs of developing and implementing the worker profiling system and should provide the Governors with adequate flexibility to ensure that the funds appropriated will be made available to provide reemployment services for profiled claimants.

Whereas Federal regulation of State and local governments has become increasingly extensive and intrusive in recent years;

Whereas such regulation has, in many instances, adversely affected the ability of State and local governments to achieve their independent responsibilities and meet their established priorities;

Whereas such regulation has forced State and local governments to use existing revenue sources or generate new property tax revenues to enable them to adhere to Federal mandates;

Whereas the resulting excessive fiscal burdens on State and local governments also undermine the ability of State and local governments to attain the goals of Federal regulations;

Whereas over 1,000 mayors through the United States Conference of Mayors recognized October 27, 1993, as National Unfunded Federal Mandates Day to call the attention of Congress to the fiscal emergency facing local governments as a result of the onslaught of Federal unfunded mandates;

Whereas support was given to the National Unfunded Federal Mandates Day by the National Association of Counties, the International City and County Management Association, the National Governors' Association, the National Conference of State Legislatures, and the Council of State Governments;

Whereas the report of the National Performance Review, issued September 7, 1993, states that "the President should issue a directive limiting the use of unfunded mandates by the Administration," and recommends that "Congress refrain from this practice"; and

Whereas the States must have adequate resources to implement effectively any new requirements placed on them by Federal laws and regulations: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Department of Labor should provide adequate resources to the States to cover the costs of developing and implementing the worker profiling system and should provide the Governors with adequate flexibility to ensure that the funds appropriated will be made available to provide reemployment services for profiled claimants.

Mr. COVERDELL. Mr. President, this Senate resolution states that the U.S. Department of Labor shall provide adequate resources to the States to cover the costs of development and implementation of the worker profiling program and provides that the Governors have adequate flexibility to ensure that the Federal money appropriated will be made available to provide the reemployment services to which profiled claimants are referred.

There is a certain irony that as we recognize National Unfunded Federal Mandate Day 1993 and the burdens mandates placed on States and local communities, the Senate would be debating a measure that could add a mandate or greater burden on our States and local communities.

Today, rallies and press conferences have been held throughout the Nation to call the attention of Congress to the fiscal emergency facing local governments as a result of the onslaught of Federal unfunded mandates.

On the surface it is easy to see how the Federal Government got into this mess of unfunded mandates. Congress and the Federal Government have spent every dime they have, and over $4 trillion they don't have, to carry out their unending desire to spend, spend, and spend. Now Congress has turned to local communities and has begun a full scale raid on property taxes in their hunt for more dollars.

The result is that States and local communities have less control over their own resources and must dig deeper and deeper to pay for Federal regulations the Federal Government won't pay for itself.

Mandates, however, cost more than money. They cost jobs.

It is time for Congress to take fiscal responsibility for the measures it passes. If we truly believe a worker profiling system should be established, then we must pay for it. We cannot continue to pass measures while passing the costs of implementation on to others. We are in the process of bankrupting our States and local governments.

This resolution is a start at bringing discipline to our spending habits.

Mr. KEMPTHORNE. Yesterday, all across the Nation, mayors, city council members, county commissioners, and State officials demonstrated in their local communities. They demonstrated to educate their citizenry on the intolerable practice of this Congress of imposing unfunded Federal mandates on local governments.

On Tuesday, this week, I met with a bipartisan delegation of mayors and county officials, including Mayor Richard Daley of Chicago and Mayor Jerry Abramson of Louisville, who have expressed support for my bill, S. 993, the Community Regulatory Relief Act of 1993. Their message of support for S. 993, the Community Regulatory Relief Act of 1993. Their message of support for S. 993, mirrored by local officials across the country on National Unfunded Mandates Day, was very simple. Congress is breaking the backs of American cities by imposing a hidden 12-percent tax on local governments.

The Congress of the United States has the right to decide that, in the national interest, national standards and national priorities dictate the imposition of mandates. I recognize this need. However, I reject the reasoning that because the U.S. Treasury is broke, we can rob from the treasuries of local communities and States to fulfill our promises. I reject the premise that Congress should require States and local communities to ignore the critical needs in their own communities to pay for Federal dictates. I reject the invisible hand of the Federal Government reaching into the pockets of the American taxpayers under the guise of local property or sales taxes.

I believe that there is a rising tide in America. A fresh current of revolt which is changing the political landscape and shaping the debate of the nineties. A rebuking of unfunded Federal mandates has crept into the language of Congress. You hear it every day on the floor of the Senate and House Legislators decry the imposition of unfunded mandates and vigorously oppose the label on legislation they offer. And yet, some still don't get it. Those of us committed to educating the mandate makers on the Hill must continue to scrutinize legislation to make sure that the burden on local government is reduced.

That is why I want to congratulate my colleague, Senator PAUL COVERDELL, for his leadership and partnership on this resolution.

As written, H.R. 3167 would make mandatory to States, without funding provided in the bill, a system of worker profiling designed to identify claimants who will need assistance services. This is, by any definition, an unfunded Federal mandate. The resolution is clear. It expresses the sense of the Senate that the Department of Labor provide to the States the moneys necessary to cover the costs of developing and implementing the worker-profiling system.

The requirement contained in this sense-of-the-Senate resolution is not opposed by the Department of Labor. Funding for this provision was suggested in a letter by Secretary of Labor Reich on October 5, 1993. But the issue, the critical issue, is, that no one thought to provide for that funding in the bill. If the funds are identified, if an agreement has been reached, why can we not go the next step and provide the funds needed so we do not further burden the American taxpayer?

There is only one American taxpayer. There is not a Federal taxpayer and a State taxpayer and a local taxpayer. There is just one packet. And this Congress must have the courage, if we are to impose new standards on the people, to own up to the cost of that standard. If its purpose is so pressing and just, we must lead the people to see its rationale. But just the same we must stop imposing mandates and begin a national debate of our national priorities and stop ignoring the impact of our acts on those who must carry out our legislation.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,415,934,724,518.77 as of the close of business yesterday, Wednesday, October 27. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,192.06.

SENATOR ROBERT PACKWOOD

Mr. BRYAN. Mr. President, the Senate Ethics Committee is asking the Senate to vote to proceed to U.S. district court to enforce compliance with a subpoena for documents from Senator ROBERT PACKWOOD.

On February 4 of this year, the Ethics Committee announced it was conducting a preliminary inquiry of Senator PACKWOOD concerning allegations of sexual misconduct, attempts to intimidate and discredit the alleged victims, and misuse of official staff in efforts to intimidate and discredit. Since that time, the committee has been conducting a thorough inquiry. The committee had announced that it anticipated completing the preliminary inquiry by the end of October. Regretfully, the committee has encountered a roadblock to its efforts, and has been forced to come to the Senate.

A subpoena was issued by the Ethics Committee and signed by the chair and vice chair on Wednesday evening, October 20. The subpoena was made necessary when Senator PACKWOOD halted the ongoing review of his diaries to which he had earlier agreed.

Let me recount the events leading to this point. On March 29, the committee issued a document request to the Senator seeking documents relevant to the committee's preliminary inquiry. As the inquiry progressed, the committee needed additional materials, and a second document request was issued on July 16. In response to these two requests, the committee did not receive any pages or material from the diaries. The committee was aware of the possibility of the existence of the diaries; however, the committee assumed in good faith that Senator PACKWOOD would comply with the two document requests and provide information from the diaries if there was relevant information. The committee did not receive such diary material, and had no cause at that time to believe the diaries contained relevant information, since they had not been provided under the document requests.

On October 5 and 6, the Ethics Committee counsel conducted a deposition of Senator PACKWOOD. During the questioning, Senator PACKWOOD under oath testified that information relevant to the committee's inquiry was contained in the diaries. Senator PACKWOOD also said he might one day use the diaries to write a book. The committee realized that Senator PACKWOOD, by not turning over the diaries earlier, had not complied with the document requests. The deposition was halted. The Ethics Committee concluded it needed the diaries before it could complete the deposition of Senator PACKWOOD. Negotiations began between committee counsel and Senator PACKWOOD's counsel as the committee sought access to the diaries.

To respect the private nature of certain information in the diaries, the committee offered to allow the Senator's attorneys to mask with tape portions of the diaries dealing with attorney-client privilege, physician-patient privilege, and personal and private family matters. The Senator's attorneys would judge what information fell into each category. They would then deliver the masked diaries to the committee counsel. The committee staff would, in the presence of the Senator's attorneys, then review each volume. The committee staff would not take notes or make copies. Committee staff would mark pages of each volume which they wanted copied. The attorneys for Senator PACKWOOD would then take the diaries back to their office to copy the marked pages. At no point in this process would the committee retain physical possession of the diaries.

This process was agreed upon by Senator PACKWOOD himself, as well as his attorneys. From October 12 to 16, the committee reviewed some 5,000 pages of the diaries covering a period of 20 years.

On Sunday, October 17, while reviewing the diaries under the original

agreement, the committee counsel came across information indicating possible misconduct by Senator PACKWOOD unrelated to the current inquiry. This information raised questions about a possible violation of one or more laws, including criminal laws. Committee counsel brought this information to the attention of the chair and vice chair.

On Monday morning, October 18, Senator PACKWOOD'S attorneys expressed concern that the Ethics Committee might consider additional potential violations. Late Monday afternoon, his attorneys informed the committee that no copies would be made of the material seen the day before, and that no more diaries would be delivered for committee review until additional material was masked, thus breaking the original agreement.

The committee refused to agree to this change in the agreement, and did not agree to the Senator's counsel's request to not pursue the information reviewed on October 17 which raised questions of other possible violations outside the ongoing inquiry.

The committee then proposed that a hearing examiner be brought into the process. Under the proposal, Senator PACKWOOD would turn over the remaining diaries to the examiner. The examiner would ensure that the only masked material would be material related to the three categories in the original agreement—attorney-client and physician-patient privilege and personal and private family matters—and would then allow the committee counsel to review the unmasked material. The diaries would be returned to the examiner for safekeeping.

Senator PACKWOOD's counsel rejected the committee's proposal, and again refused the turn over copies of the material reviewed on October 17 and the remaining unreviewed diaries. Let me point out here that information supplied to the Senate and to the media by Senator PACKWOOD's attorneys seems to indicate that Senator PACKWOOD's attorneys were willing to turn the diaries over to a hearing examiner. What has not been made clear is that Senator PACKWOOD's attorneys stipulated that neither the hearing examiner nor the committee would receive those portions of the diaries that would raise questions of other possible misconduct, and that they would mask additional material. In addition, they were not willing to provide any diary material unless the committee agreed not to pursue as part of this inquiry evidence of other possible misconduct reflected in the diaries.

The committee told Senator PACKWOOD that the committee could not agree to this limitation on its responsibility, and that the diaries must be produced under the original agreement or the committee would take steps to subpoena the documents.

On the evening of October 20, the committee issued a subpoena for the diaries. The subpoena required that the diaries from January 1, 1989, to the present be provided immediately to a hearing examiner. At approximately 9:30 a.m. on October 21, the subpoena was served on Senator PACKWOOD and his attorneys. Senator PACKWOOD's attorneys were told that if the documents were not produced, the committee intended to meet later in the day to consider a resolution to the Senate to compel compliance with its subpoena.

After discussion during the day failed to convince Senator PACKWOOD to produce the diaries, the committee met at 5 p.m. on October 21, and voted unanimously to seek a Senate resolution to go to court if the documents in question were not produced by 7:30 p.m. Senator PACKWOOD's attorneys were so informed. When the documents had not been produced by 7:30 p.m., the chair and vice chair prepared to go forward, and the resolution was introduced.

Since then, a statement has been issued by Senator PACKWOOD's attorneys which is misleading. In addition, Senator PACKWOOD made a statement on the Senate floor which included inaccurate information.

Let me recount the events leading to this point:

Senator PACKWOOD relied on material from his diaries as part of his deposition. The Ethics Committee then asked for access to the diaries.

The committee reached an agreement with Senator PACKWOOD which allowed the committee to review the diaries with attorney-client, physician-patient, and personal and private family matters taped over, in order to respect the private nature of that material. The committee reviewed some 5,000 pages, covering a period of 20 years.

There was no agreement, as one of Senator PACKWOOD's attorneys has erroneously claimed, that if the Ethics Committee saw information which could indicate possible violations of rules or laws outside the inquiry underway, the committee would not pursue such material. Quite the opposite. Ethics Committee counsel specifically informed the Senator's attorneys that if the committee saw information related to possible other misconduct, the committee would be compelled to pursue that material.

Senator PACKWOOD's attorneys broke off the committee review of the diaries only after committee counsel found information which may—and I emphasize may—indicate possible misconduct unrelated to the inquiry underway and which raised questions about possible violations of criminal laws. Committee counsel brought this information to the attention of myself and Senator MCCONNELL, and we took it to the full committee.

The Ethics Committee is not interested in the personal, consensual sexual relationships of any other Senator or Member of the House. The new information which the committee is attempting to pursue is related to actions by Senator PACKWOOD. No committee counsel removed tape, as the Senator charged on the Senate floor, so the counsel could see the name of a Democratic official written about in the diaries. Senator PACKWOOD later corrected this misstatement in the official version of the CONGRESSIONAL RECORD. However, the committee counsel is owed an apology for this untruthful charge, which was widely played in the media.

Senator PACKWOOD's diaries were maintained in his Senate office, and for many years were transcribed by his Senate-employed secretary. They are not strictly personal, handwritten diaries. Senator PACKWOOD told the committee that he was considering using the diaries to write a book.

The question before the Senate is, Will the Senate of the United States back up its own Ethics Committee, which voted unanimously to ask the Senate to enforce its subpoena of documents from Senator PACKWOOD. The committee seeks these diaries for two reasons: Because the committee knows they contain information relevant to an ongoing preliminary inquiry, and information which suggests other possible violations of rules and/or laws. The Ethics Committee and the Senate cannot permit a Senator to withhold information related to possible violations and misconduct. Nor can it permit the Senator to determine what is relevant under these circumstances.

There is no constitutional right being violated. There is no witchhunt or fishing expedition underway. The Ethics Committee has no interest in pursuing information related to the private lives of Members of Congress.

It would have been far easier on the members of the Ethics Committee to have taken another course. However, we chose to do what we believe is our duty, and we stand united behind that action. The Ethics Committee is simply doing its job of conducting a thorough and creditable inquiry. The Senate and the public should settle for no less.

The Ethics Committee voted unanimously to ask the Senate to go to court to enforce the committee subpoena to obtain documents from a Member of the Senate. I regret we are in this position, but we cannot look the other way. It is essential for the Senate to support the Ethics Committee to preserve the integrity of the institution and the ethics process.

THE PRESIDENT'S HEALTH CARE REFORM PLAN: THE HEALTH SECURITY ACT OF 1993

Mr. PRYOR. Mr. President, late last month, President Clinton described for

the Congress and the American people his plan to reform our Nation's ailing health care system. And this week, he has presented the Health Security Act of 1993 to the Congress. The President and the First Lady have worked tirelessly to produce an impressive health care reform proposal. Finally, we have a President who has shown the leadership needed to fix our flawed health care system. Finally, all people will have the security of guaranteed, comprehensive benefits. The presentation of the bill is a first step toward tackling a complex problem, and I applaud the President's goal of making our health care system work—not just for some Americans, but for all Americans.

Just last week I received a letter from Andrea Mann, a young woman from Benton, AR. She is unemployed, and her husband works for a small business. Even if they could afford it, she cannot find an insurance company that will provide her with insurance because of some previous medical problems. Mrs. Mann is eager to start a family—but not without health insurance—so she wanted to see when the President's plan would pass. She wrote, "I am literally waiting on a family while Washington argues this issue." I am hopeful that the Congress will take swift action on health reform so that Andrea Mann, and many like her across the country, will not have to wait any longer to start their families, or get that checkup they have been putting off, or the surgery they need but cannot afford.

The unveiling of the President's bill marks the beginning of what is sure to be a lengthy, yet productive, process. Some are saying this plan goes too far, and others are saying that it does not go far enough. However, I believe nearly everyone agrees that the health security plan is a strong start in the right direction which strives to fix what is broken in our system and preserve what is best about American health care.

This health care reform initiative once and for all gives us an opportunity to provide health security for all Americans. I look forward to achieving this goal and plan to work with all interested parties—not only the administration and my colleagues in Congress, but also consumers, older Americans, hospitals, doctors, nurses, pharmaceutical manufacturers, the States, and many others. And in the development of this legislation, you can be sure that I will work to balance the needs and concerns of all involved while working to guarantee health security for all Americans. In the wake of many divisive national debates, I am hopeful that this one will bring our Nation together and make our democracy a stronger one.

Mr. President, the cost of doing nothing far outweighs the cost of the proposed plan—both in financial and human terms. Recognizing that, certainly some aspects of the plan need additional review. My statement today is an effort to comment on just a few aspects of the President's plan.

PRESCRIPTION DRUG COVERAGE

I am pleased to see that the President's plan would expand prescription drug coverage to the some 72 million Americans—including millions of older Americans—that do not have any way to pay for the drugs that keep them healthy and alive. Prescription drugs are one of the most cost-effective medical tools that we have at our disposal, yet because of the lack of public and private insurance coverage and skyrocketing medication prices, too many Americans have had to make the unfortunate choice between buying drugs and food.

The proposed Medicare prescription drug benefit would certainly help a 68-year-old woman with cancer from Russellville, AR, who recently wrote to me. She wrote that her medication bills sometimes force her to go without food because such a large part of her monthly check goes to pay for drugs. The Medicare drug benefit will also help an elderly couple in North Carolina—both of whom are very ill and cannot afford all the medications that they need. Their daughter wrote to me, "My parents often do without their medications. They have worked all their lives, have raised seven children, and they do the best with what they have * * *" This Medicare drug benefit will put an end to these heartbreaking stories.

While I applaud the plan for recognizing that pharmaceutical cost containment is long overdue, I am not convinced that the plan goes far enough. For example, the plan does not propose any meaningful pharmaceutical price restraint during the period of transition to the new system, when millions of older Americans will still be very vulnerable to significant prescription medication costs. While the establishment of an Advisory Council on Breakthrough Drugs to review new drug prices is a step in the right direction, it does not appear that the Council has any real power. The plan, however, does incorporate meaningful pharmaceutical cost containment principles into the Medicare drug program. That is only fair, since Medicare will be the largest prescription drug program in the Nation.

I am pleased that the plan increases Federal support for research and development of new pharmaceuticals and treatments for the medical challenges that we face today, such as Alzheimer's cardiovascular diseases, and AIDS. The plan will also help to cover the cost of clinical trials, which is often the most expensive part of the new research and development process. In summary, the plan does a good job on expanding drug coverage, but falls short on the cost containment side. I will work to see that reasonable mechanisms are included in the final legislation to assure that research and development incentives are preserved, while the prices that Americans pay for these drugs are fair.

THE PRESIDENT'S PLAN AND THE ELDERLY

The President's plan will benefit our Nation's elderly in many different ways. Just like all citizens, they stand to benefit significantly from overall reductions in the cost of care expected to result from efficiencies in the new system. These efficiencies will likely translate into slower increases in Medicare premiums and copayments. His plan also includes the two things that senior citizens in this country need the most—prescription drugs and long-term care.

As far as Medicare is concerned, the elderly will see little difference initially in where, how, or from whom they receive their health care. Although Medicare will remain a separate program, there will be additional choices and options available to both beneficiaries and States. For example, once a State's system is established, it will have the option to include everyone, including Medicare beneficiaries, under one system. If a State chooses to do this, the coverage it provides must be greater than or equal to Medicare, at no additional cost to the Medicare program or the Medicare beneficiary. In addition, those older people who become newly eligible for Medicare will have the option to remain in their health plan provided through the alliance, or enroll in the Medicare Program.

Our Nation's elderly and disabled and their families will rest easier knowing that the President's plan also includes long-term care. Currently, millions of people go without needed support and services in the home and community because little or none are available. And once their physical and financial resources are nearly exhausted, they must further impoverish themselves to become eligible for Medicaid nursing home coverage. This desperate situation was articulated again and again by witnesses of all ages and walks of life at a hearing held by the Special Committee on Aging this past spring. No one made the point more eloquently than Walter Dawson, age 10, who because of his father's Alzheimer's disease, knew more about home care and nursing homes and Medicaid and the terrible toll that this disease takes on families than any of us would ever wish to know.

The President's plan emphasizes home and community-based care, including a broad array of services such as home health care, adult day care, and respite services. These services would be available to those who meet certain disability requirements, with some cost-sharing based on income.

The Medicaid Program for nursing home residents will remain the same, with some long-needed improvements. The plan gives States an option to allow nursing home residents to keep $12,000 in assets before they spend-down to Medicaid eligibility, compared to $2,000 currently. And, once they are eligible for Medicaid, residents are permitted to have $70 each month for their personal needs, as compared to $30 each month currently. There will also be significant improvements to the private long-term care insurance market, providing consumer protections with tax clarification to encourage employers to offer this type of insurance to their workers.

The plan also requires all States to have what is called a medically needy program for Medicaid nursing home care. This basically means that anyone whose income is insufficient to pay for nursing home care will be eligible for Medicaid. Recently, my office heard from Mrs. Ann Clem of Little Rock whose mother, a nursing home resident, made $1 over the Medicaid income eligibility limit. However, she was still about $400 short of having enough to pay her nursing home bill. If Arkansas had a medically needy program, Mrs. Clem and her siblings, who have families and responsibilities of their own, would not have to scramble every month to come up with the extra money her mother needs to stay in the nursing home.

This country's elderly and disabled have gone for too long without an affordable, broad-based long-term care program. I am very pleased that the President included those critically needed benefits in his health reform plan. Earlier this year, young Walter Dawson began writing letters to people all over the country to let them know not only about his personal situation, but also to educate them about the plight of millions of families just like his. We all need to follow Walter's example—it is our duty to educate one another on the great need for these services.

The new long-term care and prescription drug programs will be paid for by savings achieved by slowing the growth of the Medicare Program as well as beneficiary premiums and copayments and deductibles. I am hopeful we can achieve savings in the Medicare Program without cost-shifting or reducing access to care. We also need to ferret out fraud, waste, and abuse, reducing the administrative burdens currently on providers and beneficiaries, and identifying those components of the Medicare Program that could operate more efficiently. I do believe that Medicare beneficiaries and the providers who serve them will benefit from a reformed health care system.

The Health Security Act will assist early retirees, as well. Millions of retired Americans are at risk of losing their health benefits as companies are cutting back benefits to control their rising health care costs. Those persons retiring between ages 55–65, at which age they become eligible for Medicare, and who have worked for at least 10 years, will be subsidized for their employers' share of their premiums. If employers elect to provide retiree health benefits, they will pay the employee's share of the premiums. Relieving employers of this burden will greatly lower their early retiree health care costs.

HEALTH CARE IN RURAL AREAS

Mr. President, our Nation's rural residents will also benefit under the reforms planned for our health care system. Many people living in rural areas struggle on a routine basis to find basic medical care. Doctors are scarce in rural areas. Only 13 percent of our Nation's doctors are set up in rural practices. Critical shortages exist as well in the number of nurses, dentists, psychologists, and other health professionals in rural practice.

The President's plan will provide a number of incentives to draw providers into rural practice and improve access to health care in rural areas. The plan will include tax incentives for health care providers, retraining and scholarships, increased reimbursement for services, and loan forgiveness programs.

The plan will strengthen the infrastructure for care in rural areas by strengthening the public health system. Public health departments provide a great deal of care to those who might otherwise be denied access to the health care system. We anticipate that the plan will significantly increase the size of the National Health Service Corps, sending more corps doctors and nurses into rural communities where they are so desperately needed.

Through these and other measures, the Health Security Act will make a positive contribution to the health care available to rural Americans.

NEEDED REFORMS TO THE INSURANCE MARKET

Last year I received a letter that has stayed in my mind. The man—who wished to remain anonymous—wrote: "Dear Senator Pryor: I am embarrassed to write you this letter. For the first time in my life, I have recommended that a child of mine lie." This man's note tells about his 35-year-old daughter from Jonesboro, AR. Because of a previous medical condition she had in her 20's, she was repeatedly denied health insurance because of medical underwriting by insurance companies. Out of desperation for this child to have insurance, this man felt he had no other option but to tell her to engage in a falsehood.

I believe that no person should be made to feel like a criminal in order to get health insurance. Under the President's plan, people would no longer be denied health insurance because of a so-called pre-existing condition. No longer will insurance companies get to pick and choose whom they cover. Other important insurance market reforms in the President's plan include: Community rating, where premiums may only vary by family size and geographic area; Guaranteed issuance of coverage, where everyone is guaranteed coverage that can't be canceled or curtailed; and, Guaranteed renewability, where people can drop their insurers, but insurers cannot drop them.

No longer will health plans be able to deny coverage to a person based on his or her health, employment status, or financial status. Consumers will not be charged more because of their age, employment status, medical condition, or risk. Employees who develop a serious illness cannot lose coverage as a result, nor will health care coverage for their coworkers be threatened.

SMALL BUSINESS UNDER THE PRESIDENT'S PLAN

Today, our health care system is stacked against small business. Insurance companies charge small businesses as much as 35 percent more than the big ones. The President's plan will bring significant relief to small businesses who have been straining under the burden of ever-rising health care costs. In fact, the Wall Street Journal said the plan will provide "an unexpected windfall" for small business.

Recently I heard from a small business owner in Little Rock. She told me that she spends hours upon hours each year searching and negotiating for the best health insurance plan for her employees. Under this plan, this type of administrative burden will be eliminated. In Arkansas, where the majority of our businesses have fewer than 25 employees, the President's plan will bring greatly needed relief.

Insurance practices which lead to discriminatory and higher costs for small business will end—no more cherry-picking. Also, the Health Security Plan provides for a permanent 100-percent tax deduction for the self-employed. The President's plan will ensure that small businesses don't get hit with premiums they can't afford.

Contributions from small business will be eligible for caps varying from 3.5 percent to 7.9 percent of payroll, depending on the employer's average wage. Today, many employers are paying over 10 percent of payroll for their health insurance. Having said that, Mr. President, this remains an area that I intend to closely monitor to minimize any negative impact the plan might have on small business. This issue is one that we will take a long, hard look at in the coming months.

There are many additional areas of this plan that will be thoroughly debated in the coming months. I believe it will be particularly important to carefully examine the financing and cost elements of the package to ensure that they cover the cost of the provisions and accurately reflect the policy.

It is my hope that this debate continues from this point on in a constructive, bipartisan manner. I look forward to working with all of my colleagues to ensure passage of a health care reform bill that makes our system work for all Americans.

NATIONAL ARTS AND HUMANITIES MONTH

Mr. GRAHAM. Mr. President, the month of October 1993, has been designated as "National Arts and Humanities Month." I would like to offer my support for this occasion by taking a few minutes to comment on the special role that arts and humanities play in our lives.

Support of the Nation's cultural institutions maintains and augments America's cultural traditions while presenting the past and exploring the future. Investment in the arts can foster a greater sense of community by engaging the public in and through the arts.

The arts provides our children with important educational benefits such as a sense of American civilization and the other civilizations that have contributed to it. The arts foster reasoning skills, creativity, effective communication and assistance in making wise choices among the products of the arts.

In addition to their educational and culture roles, arts and humanities hold great economic value. The arts benefits individuals as well as communities through tangible and intangible resources invested in attending performances, exhibitions, art classes, and other activities.

From the panhandle to Miami, arts organizations in my home State of Florida reflect its large multicultural populations. Thriving urban centers and rural areas are all served by traditional as well as contemporary artistic expressions.

The Florida Division of Cultural Affairs and local arts agencies assist artists, strengthen arts organizations, and provide cultural opportunities enjoyed by the people throughout Florida. These investments in our artistic resources enhance and transmit the richness of our Nation's cultural legacy for the benefit and enrichment of present and future generations.

I would like to take this opportunity to mention some of the exciting cultural activities currently taking place in Florida. Directed by Edward Villella, Miami City Ballet is the newest and fastest growing classical dance company in America. Since its inaugural performance in October 1986, the company has presented nearly 70 ballets, including more than 25 world premieres.

The company has been invited to perform throughout the United States as well as Europe, England, Israel, and Central and South America. Notable engagements include the Lyon, France Biennale de la Danse, Wolf Trap Farm Park Festival, the Ravinia Festival, Jacob's Pillow Dance Festival, Dance Aspen, the Chautaugua Festival, The Madison Festival of the Lakes, ArtPark, and the Brooklyn Center for the Performing Arts.

In south Florida, the company claims four home cities—Miami, Fort Lauderdale, Palm Beach, and Naples, on the west coast. Over 15,000 season subscribers see the company in regular series throughout the season. Special series of "DanceTalks" and "Ballet for Young People" as well as exclusive performances for schools are presented, where the physical, human vocabulary of the dance is described and demonstrated. I am pleased to announce that the company will be performing at the Kennedy Center here in Washington in April 1995.

The Museum of African-American Art, located in Tampa, is one of America's newest public art museums and is committed to honoring the continuing growth of African-American history and culture. The opening of this institution marked the 50th anniversary of the Barnett-Aden African-American Art Collection—one of the Nation's oldest chartered collections of African-American art. The installation of the Barnett-Aden collection in this new museum provides a formal and permanent facility to house the treasures of this unique and valuable collection.

It is significant that part of the land upon which the museum is now located was owned by African-Americans in the early 1920's and housed the first black public library for the Tampa community.

The Hispanic Cultural Arts Festival in West Palm Beach, the American Stage Co. of St. Petersburg, and the Philharmonic Orchestra in Ft. Lauderdale, are just a few of the many participants in Florida's flourishing arts community. The number of performing arts companies, museums, arts centers, and other arts organizations has grown to over 5,000 over the past 27 years, with no end in sight. Florida continues to be a cultural dynamo reflected by vibrant arts centers across the State.

Mr. President, I appreciate this opportunity to recognize the importance of arts and humanities in our lives. Through their educational, economic, and cultural manifestations, arts and humanities impact both present and future generations of Americans.

WELCOMING OF TASK FORCE 160

Mr. SASSER. Mr. President, last Sunday, the 24th of October, I was very honored to attend the homecoming of elements from the 160th Special Operations Aviation Regiment, and the 75th Ranger Regiment. They have just returned from Somalia, where they displayed unsurpassed tenacity and valor in combat. Deputy Secretary of Defense Perry aptly described their heroism during Sunday's homecoming ceremony at Fort Campbell, and I ask unanimous consent that Dr. Perry's remarks be included in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY DEPUTY SECRETARY PERRY WELCOMING OF TASK FORCE 160, OCTOBER 24, 1993

Soldiers of the 160th Special Operations Aviation Regiment, night stalkers, 75th Ranger Regiment, and our hosts from the 101st.

It's a real privilege to speak for Senator SASSER, Congressman TANNER, General Sullivan, Secretary Aspin, and President Clinton, to welcome you back home and to thank you. I especially want to convey a heartfelt thank you from President and Mrs. Clinton, who are meeting this morning with your wounded comrades at Walter Reed Hospital.

Thank you for taking on a tough job. And thank you for performing it with great skill and courage.

I also want to express my thanks to the family members. You have endured the separation and the agonizing uncertainty of having loved ones on a hazardous mission in a far away land.

We went to Somalia last December to deliver humanitarian aid. At that time, innocent people were dying on a massive scale. The nation was ravaged by years of brutal civil war and famine. An estimated 1,000 people were dying a day, and 800,000 refugees were forced into exile.

In a few months, we were able to bring order to the country and relieve the famine. We saved untold thousands of lives.

Then, in June, the militia forces under Aideed began attacking U.N. forces in Mogadishu, killing 28 in a few days. All that we had accomplished at that point was in danger of being lost, since the U.N. forces in Mogadishu were unable to deal with the guerrilla warfare that had begun. So our military commander in Mogadishu asked for help. The mission was a tough one, so we sent in the best—Night stalkers and rangers.

You went there to restore security to the city so that Humanitarian aid could resume. And you succeeded—but at a heavy price.

That price was exacted when we lost a Blackhawk on September 28, and again during the firefight in Mogadishu on October 3. That fight demonstrated the skill, discipline, and courage of the night stalkers and rangers.

When two of your helicopters were shot down and the crew endangered, you never hesitated. You continued to fly into the hostile fire. You ran effective fire support to the rangers, who were vastly outnumbered.

From this day forward, no one will recite the rangers creed, "Never shall I fail my comrades," without thinking of your display of courage in Mogadishu on October 3. That day you showed the world that "Night stalkers don't quit".

And we saw your determination and professionalism in Michael Durant, who braved his captors and bore his wounds with quiet courage. As tough and resolute as Chief Durant was, I was equally impressed by the courage displayed by his wife. Her message on national television to remind her husband of NSDQ reminded us of the dedication and support at home. Her courage provided all of us courage.

Because of your skill, discipline, and courage, you stood firm with your comrades and,

although you suffered significant casualties, you inflicted casualties on your attackers many times greater than what our troops suffered. In fact, your actions with the rangers that day effectively disabled Aideed's militia and led directly to his willingness to call for a cease fire and negotiate a political settlement.

I came here today to pay tribute to your courage and to express my deep personal sense of loss at the death of your fellow soldiers. I especially want to extend my sympathy to the families of the soldiers who gave their lives.

Personal hardship is not a stranger to Fort Campbell, and the Nation joins with you once again in your suffering.

When General Sullivan presented the Purple Heart to Chief Durant last week, and told him that he was proud of him, the chief replied, "I am proud to be an American". I can tell the chief and the other night stalkers and rangers, that all Americans are proud of you, and admire your professionalism and skill and all Americans are grateful for your courage and your service to our country.

God Bless you, and God Bless America.

PASSAGE OF EMERGENCY UNEMPLOYMENT BENEFITS

Mr. PELL. Mr. President, I am pleased the Senate has approved legislation to extend the emergency unemployment benefits program that will provide emergency benefits to those suffering from long-term unemployment.

Since the beginning of this month, my Providence office has been inundated with calls from Rhode Islanders who are terribly worried about if and when Congress would approve this very important legislation. I am sure they will sleep just a bit easier tonight.

My home State of Rhode Island has been beset by alarmingly high unemployment. I have a chart in my office that tracks both the national and State unemployment rates. That chart begins in December 1989 and this past July is the first time Rhode Island unemployment has been below the national rate. Unfortunately, August saw the rate again go up above the national average.

Over the span of that chart, Rhode Island's unemployment has been over 9 percent for months on end. In that regard, the long-term unemployed in Rhode Island share the dubious distinction, along with those in Alaska, California, West Virginia, and Puerto Rico, of being eligible for 13 weeks of additional benefits under this legislation. While I am pleased this bill acknowledges the special circumstances in which we find ourselves, I would much prefer a lower unemployment rate.

In conclusion, I was pleased to vote for this bill and I urge the President to sign it into law as soon as possible.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

LEAVE OF ABSENCE

Mr. BYRD. Mr. President, I make this request on behalf of Mr. HATFIELD.

Mr. President, pursuant to rule 6, paragraph 2 of the standing rules of the Senate, I ask unanimous consent that I be excused from attending the remaining session of the Senate this afternoon and the day of Friday, October 29, 1993, so that I might attend the remembrance ceremony for my friend who passed away, Bill Healy, founder and former President of Mt. Bachelor Ski Area in Bend, OR.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition?

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES-MEXICO TRADE AGREEMENT

Mr. DORGAN. Mr. President, I rise today to discuss briefly the subject of the North American Free Trade Agreement, more commonly known as the United States-Mexico trade agreement. I decided it would be instructive to bring to the floor of the Senate a copy of NAFTA because my guess is no one in this body has read it. Probably very few have seen it and most will be surprised to understand its sheer volume.

This is the agreement, and I will not lift it all up, but we have volume 1, volume 2, and annex 3022, some of which is written in Spanish, and 3X322 schedule of Mexico versus the schedule of the United States. Third is a tariff schedule of Canada.

So when you talk about the treaty with Mexico, the trade treaty, that is so controversial it is not a 8½ by 11 sheet of paper on which they negotiated the specifics of trade between our countries. It represents these volumes of specific trade agreements in which a trade negotiator for our country went behind closed doors and negotiated with someone else specific rules under which trade will take place between us and Mexico.

Yesterday or the day before there was in the Washington Post an advertising supplement called Ag for NAFTA. The Ag for NAFTA folks bought a big piece of the Washington Post and put a lot of information in it.

Of course, they would have you believe that these are farmers for NAFTA. It could not be farther from the truth. These are large food processing companies that have gathered under an umbrella called ag and pretended that the family farmers in this country support NAFTA.

The family farmers I represent do not support NAFTA by and large, because they know deep in the bowels of these volumes our trade negotiators lost. I am going to explain the specifics of that in just a moment.

So, Ag for NAFTA, big food processing companies, want NAFTA. Is that a surprise that they do? They would like to access the Mexico market to hire the $1 an hour labor and make money. That is Ag for NAFTA.

NAFTA is a slick idea for those who support the Mexico trade agreement or NAFTA because they have a lot of money. At its heart is the agenda of U.S. corporations to access cheap labor in foreign markets and sell back into the U.S. marketplace. It is about money, money for big economic interests.

Part of this campaign, which again those who are able to wage it can well afford, is illustrated here in an advertisement published in Newsweek Magazine, the New York Times, and other places, by Mobil Oil, and I wanted to just show my colleagues what Mobil Oil said in this long ad. Mobil tells us why the United States-Mexican trade agreement is a wonderful deal.

They say, "Setting aside for a moment the specifics of the agreement itself." Let me say that again. "Setting aside for a moment the specifics of the agreement itself," then they go on to make that case. They would like for us to set aside the specifics of the agreement. They want, some broad theoretical discussion of trade philosophy. After all, at its root this agreement is a series of books like this that on page after page define the rules, and the fact is we lost. We will lose jobs. We will have lost access to markets, and we will have created unfair conditions at least for a decade for many of our producers, including farmers I represent. Let me give you some examples.

Let us just take a look at the United States-Mexican trade agreement through the eye of a french-fried potato, a traveling potato, one that goes from the United States to Mexico, a potato that runs from North to South, and then a Mexican french-fried potato that goes from South to North. And let us ask ourselves how did these negotiators do, the ones who wore the American jerseys when they sat down and got tough on behalf of our interests? How did they do on the french-fried potato? Did the farmers out in my part of the country who raise potatoes do pretty well? Let us look.

Now, when the United States sends french-fried potatoes to Mexico, there is now required an import license and a 20-percent tariff. Under NAFTA, when the United States sends french-fried potatoes to Mexico, we will have a quota and 20 percent tariff over the quota. When Mexico now sends french-fried potatoes to the United States they have a 10-percent duty. Under NAFTA, however, they will have no quota, and the tariff will be terminated in 5 years.

I would ask our negotiator, whoever he or she might be, why did you lose on behalf of our potato growers?

How could you lose that negotiation on french fries? I do not know who they are. They may be working for the Mexicans at the moment.

We have dozens of people who used to work on our trade issues that are now on another payroll working for other folks that want this United States-Mexican trade agreement passed.

Mr. FORD. Will the Senator yield for just a question or comment?

Mr. DORGAN. I am happy to yield.

I just want to say to my colleagues, though, that I am going to come to the good stuff. I am going to go to potatoes and I want to go to barley and finally to beans, because beans is really where the story of the Mexican trade agreement is.

(Ms. MOSELEY-BRAUN assumed the Chair.)

Mr. FORD. Madam President, I want the Senator to know that my farmers are having a tough time with tobacco, and he understands that.

Right now, the tariff for taking tobacco into Mexico is 20 percent of the value of the product. Under NAFTA, guess what? It is increased to 50 percent of the product.

Do you think we are going to sell anything down there? Why, no.

So we have to look at the fine print. The Senator said "in the bowels of the NAFTA agreement." I agree with him.

Mr. DORGAN. I appreciate the comment and question from the Senator from Kentucky.

Let me go on to potatoes. I mentioned french-fried potatoes. Let us take the whole potato. How about the whole potato trade between the United States and Mexico? Same old deal.

I do not know whether it was the same negotiator. The fact is, that person sat down to negotiate and that person lost. We used to be shrewd Yankee traders. I have not found a trade agreement yet that we won in the last 2 decades. Every trade agreement we negotiate, somehow our producers come out on the short end and the largest corporations in the world end up making more money.

Let me talk about potatoes just for a second.

Mexican potatoes to the United States, right now, small tariff. After NAFTA, no quota, 5-year phase out of the tariff.

Potatoes from us to Mexico, a quota. And for all potatoes beyond the quota, a 250-percent tariff.

Who lost on potatoes? Well, perhaps the same person that lost on barley.

We make a lot of things out of barley. We make cereal out of barley. We make some beer out of barley.

So whoever sat down and negotiated barley, here is how well they did.

Right now, if we send barley to Mexico, we have import licenses we confront. We send a certain amount. Under NAFTA, we will be limited to 25.5 million bushels, well below what we now sell in Mexico. So they say you are going to be able to sell less in Mexico, and, if you sell anything over that, a 128-percent tariff will apply. That is right, 128 percent.

Now what about Mexico, if they raise some barley and send it to us? No restrictions; no quota.

So whoever sat down and negotiated barley could not have gotten much sleep the night before.

So, United States farmers got a trade deal on barley that says Mexico to the United States, no quota, no restrictions, no problem. United States barley to Mexico, take what you used to send them, restrict it a fair amount, and then add 128-percent tariff above it.

I do not know what school this negotiator went to, and I do not know what grade this negotiator completed. But I would say, if we can find out who it is, we certainly do not want that person negotiating future trade treaties on behalf of this country.

Beans—navy beans, kidney beans, you name it; dry, edible beans. Plenty of them in this country. We raise plenty of them in North Dakota.

Beans to Mexico. It has been a pretty good market for us. But, under NAFTA, we will have a stiff quota for beans going to Mexico, Navy beans, kidney beans, pinto beans. For beans that we now sell to Mexico over the recent years, NAFTA will impose a 139-percent tariff on all shipments above the quota. However, for Mexican beans coming north, no restrictions, no quota.

Must have been a blood brother or at least a close partner of the fellow that negotiated barley. Same story.

We do not know who they are, but I guarantee you their fingerprints are here in the middle pages someplace.

Now, I have been standing here talking for weeks about what this trade agreement means in terms of jobs. At its roots, NAFTA is: Let us take American corporations to Mexico, buy dollar-an-hour labor and sell the product back into the United States and make more money. That is what the agreement is at its roots.

But Mobil Oil said, let us set aside specifics.

Let me put that chart back up because that is what the supporters of NAFTA want us to do. "Setting aside for a moment the specifics of the agreement itself." That is what they want us to do.

But I will not set aside the specifics. Yes, I will continue to talk about job loss and plant flight and movement of United States manufacturing operations to Mexico, because I think that is a serious problem in this agreement.

But, in the end, and in the final analysis, this agreement is nothing more than thousands of pages of specifics. And deep in these pages are agreements by which we decide what quantity of beans will we sell to Mexico and what quantity of french fried potatoes will they sell in the United States. And that is the basis on which our trade negotiators win or lose.

I would ask President George Bush, were he here, why his administration spent 4 years telling us in this Congress and telling the American people that he steadfastly opposes an industrial policy in America because an industrial policy would amount to the Government picking winners and losers. Why would one be opposed to an industrial policy because it picks winners and losers and then send your folks over to negotiate a trade agreement that in 2,000 pages picks page after page of winners and losers and in which, all too often, those who work for a living in this country, those who get their hands dirty because they get up early and work late raising beans and potatoes and barley, why, when they negotiated winners and losers did they negotiate so many American producers as losers?

This is, after all, a debate about the specifics. No matter how much those corporate interests and those slick advertisers and all those money folks that are trying to stuff NAFTA down the American people's throats, no matter how much they want us to believe that we ought to set aside specifics, we need continually to keep coming to this floor on behalf of the American producers and ask the question: What is in those books? What are the specifics? How did our negotiators perform on behalf of our producers? I am sad to say, Madam President, that our negotiators did not do well.

Let me make one final point, because I know that my friend from Tennessee is waiting to speak today.

We will, in the coming weeks, make a decision about this trade agreement. Most people do not know much about what NAFTA means. But NAFTA means this: NAFTA means jobs; NAFTA means opportunity.

This is a continuation of failed trade policy in which this country has said to the rest of the world, we open our markets to you and we are willing to accept restricted access for us.

We are dismissed, all of us who oppose NAFTA, routinely and continually dismissed as a bunch of uninformed, xenophobic isolationists, protectionists who know nothing and cannot quite see over the horizon. That is the way we are dismissed.

I am sick and tired of being called a protectionist. I do not believe we should put up barriers around this country. I do not believe we should restrict access of goods coming into our country. I do not believe American consumers should be denied access of goods produced anywhere in the world.

I do believe, when we negotiate on behalf of American producers a trade

amendment, that we ought to insist that the rest of the world—Japan, China, and, yes, Mexico—in any trade agreements, play by agreements that are fair.

No longer should we accept trade agreements that tie our producers' hands behind their backs, and send our jobs elsewhere in search of dollar-an-hour wages. That does not strengthen this country. That weakens this country.

Is the main question of NAFTA, as Mobil Oil and all the others would have us believe, an ethereal debate about the doctrine of comparative advantage in economics? Is that what it is really about? Or is it about who wins and who loses, because our trade policies have been bankrupt? This is not about whether the United States can compete. We can compete anywhere in the world. We have some of the best men and women working, some of the best men and women managing. We have some of the strongest and best enterprises in the world. But we cannot compete and cannot succeed unless the trade rules are fair. This trade agreement is flawed. I will not vote for this trade agreement, and I hope sufficient numbers of my colleagues are willing to stand up and say "no," to force this administration to take the product of the Bush administration's negotiation and decide to do it over and do it right.

Canada and Mexico are good neighbors. We want a good relationship with them. But if the lessons from the Canadian agreement are instruction for us, we ought to understand that the free trade agreements can be terribly harmful and hurtful to our producers, and once in law, very difficult to change.

I sat on the House Ways and Means Committee for 10 years. When the United States-Canada trade agreement was presented to us, the vote was 34 to 1. Guess who was the only person on the U.S. House Ways and Means Committee to vote against it? And guess what happened immediately afterwards?

I raised objections about how unfair this was to our grain producers. I got letters from President Reagan, I got letters from the trade ambassador, and I got promises in writing from both the President and trade ambassador. Do you know what? They were not worth the paper they were written on. They were promises never kept, promises forgotten immediately. The result of it was, at least with respect to the United States-Canada trade agreement, immediately after the agreement we began seeing a flood of unfairly subsidized grain coming across the border taking tens of millions of dollars out of the pockets of our farmers. For 4 years I fought to try to deal with it and have not yet been successful.

The instruction in all of that is this: It is very difficult to correct a trade agreement that is bad for this country. The best approach to deal with that trade agreement is to send it back and say, "Renegotiate it, do it over, do it right, and do it so it works for the best interests of this country."

Madam President, I hope in the coming weeks, as we deal with this issue, we will not, as some would have us believe, set aside the specifics. We will, instead, look at the specifics. I have only mentioned four commodities or products here. I would like to look at the specifics over a whole range of areas and decide what do they do and what is our response to it. My response is to say this country deserves better. This country deserves more. Our workers, our businesses, our producers, the American people deserve better than NAFTA.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. MATHEWS. Madam President, if I could digress for just a moment, I would like to take an opportunity to congratulate the people of North Dakota on the selection they made when they chose BYRON DORGAN as Senator. I have come to respect him greatly in the time that I have been here, and while I differed with him on the question of whether NAFTA is going to be good or bad for this country, I know of no one who can better present the facts about the treaty, no one who can make it possible for the people of this country to better understand the choices we will be making, and that they will be making, than the Senator from North Dakota. I want to congratulate him on that presentation.

Madam President, if I could have permission to speak this afternoon as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH SECURITY ACT OF 1993

Mr. MATHEWS. Madam President, what I would like to do is to talk about President Clinton's Health Security Act.

I rise today as one of the original cosponsors of President Clinton's Health Security Act of 1993.

President Clinton and his administration have delivered—literally delivered—one of the most sweeping and monumental pieces of legislation to any Congress since the Social Security Act.

It is a mammoth bill, both in weight and in weight of its repercussions, for health care is a matter that eventually touches every American.

The goals of this legislation are clear: To guarantee lifetime health care for every American—to constrain runaway costs that threaten to bankrupt every budget—the Federal budget included—to bring coherence to an unwieldy Medicare and Medicaid system buckling beneath its own paperwork—and to preserve the choice and quality of care that make American health care the world's best.

The legislation inaugurating these goals builds upon our current health care system. But it spreads the responsibility just as it widens access and coverage.

It asks employers and employees to share proper responsibility for providing health insurance and for consuming it wisely.

It summons insurance companies to a higher involvement with the public good while reducing legal constraints that prevent doing so.

It reduces the need for physicians and providers to practice defensive medicine. It magnifies the degree of competition and the degree of control in the present system.

It gives States the important prerogative of assuring that their citizens have access to appropriate, affordable coverage and care.

Finally, this new approach recognizes the special needs of the elderly, the disabled, and other groups with singular demands for health care.

And at the same time, this measure also expands support for those who make a special contribution through medical research, teaching, and primary and secondary care.

Despite the merits—even the marvels—of our current health care system, we all know that the United States cannot continue with it in an unchanged form.

Health spending at the current rate will bankrupt us.

We cannot be fiscally prudent, economically competitive, and socially just when some of us pay nothing for the care we receive, when health costs constitute the No. 1 priority in middle-income-family budgets, and when persons in the lower income strata—millions of our fellow citizens—must decide between their medication or their groceries.

We as a Congress know this.

But because we know these things, we also know that the obverse of universal coverage must be universal participation.

We know that those who have profited by their place in the system must expand the system so more have a place in it.

And we know that some American businesses and households may have to shoulder a carefully considered burden in order to assure a greater public good.

That said, however, let us also be fully aware of what we as a Congress are about to do. We owe it to the American people to tell them the system we are about to create is going to do some things differently.

We are about to create a framework that will surround American life for generations—possibly a framework that will exist for the life of the Republic.

We are about to create an eternal obligation that we as a Nation owe ourselves as a people.

When we proclaim that every American has a right to irrevocable lifetime health care, we are creating an entitlement program that is breathtaking in magnitude.

So we have to get this right when we do.

We have to assure that this program is fully and fairly and realistically funded.

We have to assure we are not merely swapping a private sector bureaucracy for a public sector bureaucracy.

The bill we produce has to be decisive and fair and inclusive—no maybes, no favorites, no loopholes, no exceptions.

I am certain the Senate's debate and participation will make that so.

When President Clinton spoke to the Congress, he outlined the principles on which his speech is based. He stirred our imagination and our resolve, and as a cosponsor of this measure I am committed to the kind of comprehensive plan he has proposed.

However, I am not committed to every single aspect of the plan. I realize that we stand only at the beginning of a worthy effort.

I'm sure the coming debate will raise questions and new proposals. Alternative proposals are already on the table. All of them must be considered, and many will deserve being included in the final bill.

I welcome that coming dimension in this process. For as I said, we have to get this right.

Getting things right will be a Herculean task, but no less so than the effort that brought us this far. The Health Security Act of 1993 is a credible and deserving beginning toward filling the need we know is there.

The President and Mrs. Clinton and their team have done their best to do what is right and necessary. The proposal is a good beginning.

Now Congress must do the same.

I know we can, and I know we will—because we must.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

APOLOGY TO MR. BAIRD

Mr. PACKWOOD. I thank the Chair.

Madam President, the other day in speaking on the situation involving the Ethics Committee and the charges against me, I made reference to a Member of Congress and a Senator and sexual affairs they had had.

Obviously—and the way I phrased it—it was my fault because the story has come out that I was threatening to reveal these names if the Senate voted to subpoena my diaries.

I did not mean it in that sense, and if I left that impression, I apologize. Everything that was in the statement put out by my attorneys involving two affairs—the Senator and the House Member—were things that the Ethics Committee had already demanded that we produce, things they had seen in going through my diaries, and we were using them as examples of the kinds of things that the Ethics Committee was asking us for.

So it was not intended to be, "Well, if I have to produce these, I will reveal this." It was meant to be that the Ethics Committee has asked for these things and insist upon their production.

Now I would like to read a statement and then make an apology to Victor Baird, the chief counsel of the committee. This is a statement that was put out by Senator BRYAN today: "The Ethics Committee"—this is part of a statement; I am reading one paragraph.

The Ethics Committee is not interested in any of the personal, consensual sexual relationships of any other Senator or Member of the House. The new information which the committee is attempting to pursue is related to actions by Senator PACKWOOD. No committee counsel removed tape, as the Senator charged on the Senate floor, so the counsel could see the name of a Democratic official written about in the diaries. Senator PACKWOOD later corrected this misstatement in the official version of the CONGRESSIONAL RECORD. However, the committee counsel is owed an apology for this untruthful charge, which was widely played in the media.

I do apologize for my misstatement, and I corrected the RECORD to accurately reflect what happened. But I would like to again state it, and I am going to read from a memo from one of the attorneys at Arnold & Porter, my attorneys, to me involving this particular issue involving the Member of the House of Representatives to which this referred.

In it will appear the name Victor Baird who is the chief counsel and will appear the word "redacting" which is a lawyer's word meaning they take a piece of tape and cover up something they think they are entitled to cover or do not want to be seen.

This memorandum is from Michael Korens to me.

This memorandum memorializes my recollections regarding the page from your diary selected by the Ethics Committee staff which refers to the affairs of a Member of the House Democratic leadership.

The identity of the person was masked with a single-line redacting tape. Victor Baird asked me why the particular lines were masked. I then reviewed the document by removing and reapplying the tape. I told Victor that, consistent with our practice at that time of single-line masking embarrassing references to public figures, we had masked this reference since it related to a prominent Member of the House Democratic leadership. I told Victor that I would remove the tape if he wished. He said that would not be necessary. When we received, from the Ethics Committee, the pages of the diary they wanted copied, that passage was marked as "relevant" for purposes of copying.

That page is now in the possession of the Ethics Committee.

I might indicate how the practice of going through the diaries was being operated at that time.

A member of the Ethics Committee staff and my lawyers would be sitting side by side turning pages of the diary. And the Ethics Committee would note what they might want. We had possession of the diary. At night, we would have the notes and copies of the pages that they wanted copied and we would copy them.

Without waiving any rights, we were going to argue later whether these were relevant or not. We did not waive any rights as to producing them. We gave to the Ethics Committee the page that they wanted.

I hope I have accurately reflected—I was not there—how this happened. I have since read the page. I did not read it then.

To me, although you might have to be active in politics to understand it, even with the name of a person covered up, the references in the paragraph very clearly from the standpoint of politics would indicate who the person was even if you could not see the name.

I am not here in any way charging the Ethics Committee or Victor Baird of having lifted the tape. I was in error when I said that. My attorney lifted the tape, told the counsel, the chief counsel of the Ethics Committee it was a significant—I want to say just what he said—"a prominent Member of the House Democratic leadership."

Later that evening, when we received a list of the pages that the Ethics Committee wanted us to produce for them, that was one of the pages. And they had marked that passage as relevant and wanted it produced. So it is in their possession.

To ease the minds—another subject—to ease the minds, perhaps, of any Senators that may be concerned about the reference to "a Senator"—and I might emphasize that the Ethics Committee has also marked this passage as relevant—but this now falls into the contested area of the time period, and we have not given any documents, but they have seen it and they have asked for it. It is not a sitting Senator. It is somebody who was in this body some time ago but is no longer a sitting Senator.

But I emphasize again, in my lawyer's statement several days ago, he made reference to a variety of items—these being two of them—but other items, and in every instance, they were references to items that the Ethics Committee had already asked us to produce and, therefore, we had to presume at least they thought were relevant to the charges.

I apologize to Mr. Baird for having misstated myself. I did correct the RECORD so that it accurately reflected what happened. But I hope now—and I will ask unanimous consent that this

memo from my lawyer to me explaining how this happened be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

OCTOBER 26, 1993.

From: Michael E. Korens.
To: Senator Packwood.
Subject: Diary issue.

This memorandum memorializes my recollections regarding the page from your diary selected by the Ethics Committee staff which refers to the affairs of a member of the House Democratic leadership.

The identity of the person was masked with single-line redacting tape. Victor Baird asked me why the particular lines were masked. I then reviewed the document by removing and reapplying the tape. I told Victor that, consistent with our practice at that time of single-line masking embarrassing references to public figures, we had masked this reference since it related to a prominent member of the House Democratic leadership. I told Victor that I would remove the tape if he wished. He said that would not be necessary. When we received, from the Ethics Committee, the pages of the diary they wanted copied, that passage was marked as "relevant" for purposes of copying.

That page is now in the possession of the Ethics Committee.

Mr. PACKWOOD. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Tennessee, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is permitted to speak for up to 10 minutes.

HEALTH CARE

Mr. DOLE. Mr. President, during the Finance Committee hearing this morning, we were told by the Health Secretary, Donna Shalala, that the extra costs for health care would range from $100 to $500 a year —I am talking about individual increased costs—a small price to pay for the additional benefits and security these people would have.

It was also indicated that maybe 40 percent of the American people would pay more under the Clinton proposal—40 percent of Americans would pay more—60 percent would pay less.

Now, again, these are estimates. The Federal Government always tries to low-ball the estimates. Maybe it is 40 percent who will pay more, maybe it is 50 percent, maybe it is 60 percent who will pay more. And maybe it is 40 percent or 30 percent or 20 percent who will pay less.

It seems to me, as a member of the Finance Committee, if this is the testimony—I do not quarrel with it—I just suggest it is the very reason we need to stop all the hype— everybody is going to get something for nothing; everybody is going to be covered; everybody is going to like the health care plan—and get down to the serious business of looking at the health care proposal of President Clinton and of all the other proposals, Republican as well as Democratic proposals, page-by-page, line-by-line, word-by-word, so that we can get information on how much will it cost. As I said yesterday, with the President, Mrs. Clinton, and others, who wins, who gains, who loses, and how much it is going to cost.

Well, today we have an idea; 40 percent will lose, 60 percent will gain and it is going to cost who knows how much.

I am certain in any other plans some people are going to pay more and some are going to pay less. But this is the kind of information the American people need to have before Congress makes any judgment on any health care plan, whether it is one proposed by the President, one proposed by Republicans. There is a bipartisan agreement with Democrats and Republicans. There is a Republican House plan. There are different Democratic plans. There are a lot of good ideas in all of these plans, the President's included.

So those of us who are on the committees that have responsibility in the jurisdiction over health care—and the Finance Committee in the Senate will have a great deal to do with this—I think have a special obligation to the American people to start that page-by-page, line-by-line, word-by-word review because one thing that concerns the American people is the costs, are they going to lose, are they going to gain. And another thing that concerns the American people is whether or not we want to turn over one-seventh of the total economy, 900 billion some odd dollars for the cost of health care under the President's plan and almost that much under some of the other plans to the Federal Government. Most Americans cannot recall any recent Federal program they would like to duplicate and, not only duplicate, increase to one-seventh of the total economy.

So this may be startling to some but it is the kind of information we need to make a judgment. This is just the beginning. There has still been no bill introduced. I understand it may not be introduced for another 2 weeks. We may not have a bill introduced before Congress adjourns this year.

So there will be a lot of time to talk about health care and to get down to the nitty-gritty. I think this is the first indication of how this—this is going to upset people who happen to hear it on television, read it in the paper, hear it on the radio, that 40 percent of Americans'—that is about 100 million—costs are going to go up, because they have been led to believe, or a lot of people have, everybody is going to be better off, it is not going to cost any more, we are going to get better benefits for it.

Mr. President, I yield the floor. I thank my colleague from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Kansas, [Mr. DOLE].

CELEBRATING THE CAPITOL'S 200TH ANNIVERSARY

Mr. BYRD. Mr. President, last Saturday, October 23, the Nation witnessed the dramatic reinstallation of the Statue of Freedom on her pedestal atop the Capitol dome. That stirring event was followed by a program, conducted on the building's lower west terrace, celebrating the Capitol's two-hundredth anniversary. This ceremony, broadcast by C-SPAN to millions of Americans nationwide, featured brief addresses by the President, the Vice President, the Senior Associate Justice of the Supreme Court, the joint congressional leadership, and a specially commissioned poem offered by the Poet Laureate of the United States. Inspiring music enhanced the day's festivities, with performances by the U.S. Navy Band, the Howard University Choir, and vocalist Liza Minnelli. The noted historian David McCullough presided as keynote speaker and master of ceremonies.

As I listened to the richly inspiring speeches and poetry, I concluded that they should be made available in written form to the widest possible audience. Accordingly, I ask unanimous consent that a transcript of the proceedings of last Saturday's event be published in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

A COMMEMORATION OF THE BICENTENNIAL OF THE UNITED STATES CAPITOL, 1793–1993, SATURDAY, OCTOBER 23, 1993, THE WEST FRONT OF THE CAPITOL

DAVID MCCULLOUGH. Ladies and gentlemen, the Chaplain of the United States House of Representatives, The Reverend Dr. James David Ford.

Dr. FORD. As we stand in this hallowed place surrounded by the signs and symbols of democracy, we solemnize this occasion in a prayer of thanksgiving for days past and petition for the days ahead.

Oh, gracious God, whose creation brought us forth and gave us life and true liberty, and whose providence has blessed our nation with gifts both great and small, we pray that as we lift our eyes to this Capitol with its symbols of freedom, we will be moved with reverence for the sacrifice of those who have gone before and who now stand in the shadows of history and encourage us in the paths of liberty.

May this sanctuary of freedom be consecrated by those who have been entrusted with its care and be alive with deeds of honor and acts of goodwill, that in all things, "justice will flow down as waters and righteousness like an everflowing stream."

This is our earnest prayer. Amen.

DAVID MCCULLOUGH. Mr. President. Ladies and gentlemen. My name is David McCullough. On this magnificent morning, at this historic place, here at latitude 38 degrees, 53 minutes north; longitude 77 degrees west, on a hill above the Potomac, we are gathered to celebrate the bicentennial of the best known, most important, and most revered structure in our nation. The United States Capitol.

We are Americans. And for us, this is a proud day. For this great building holds a place in our hearts and in our way of life like no other. It is a shrine on a hill, and it is the national stage upon which are enacted the difficult tasks and continuing drama of representative government. The bedrock of our faith in the land of the free.

Freedom is why we are here. Freedom is why America. And at the summit of the Dome, now there in sunshine, the emblem of freedom is again in her place. Older by a generation than the Statue of Liberty, she has stood on high since the year 1863. Since the autumn of Abraham Lincoln's *Gettysburg Address*. She has weathered civil war. World war. She has seen the deaths of presidents. The Great Depression. The sky turned dark by prairie dust blown from half a continent away. She has been pelted by sleet and snow, and struck by lightning. And, she has seen triumphant times. Good times. Lots of good times. Never has she looked better than today, October 23, 1993. [Applause]

All newly, thoroughly refurbished. Ready for another two hundred years, or more. And never—ever—has our Capitol looked better than today. Not ever before in all of its days.

Ladies and gentleman, a hundred years ago in this very place the nation celebrated the Capitol's first century. The President of the United States, leaders of Congress, and justices of the Supreme Court addressed another vast audience. On this equally festive occasion a century later, we will now hear from the successors of those leaders who represented our government's three branches.

We begin with the leadership of the Senate. To offer his observations about our government as it existed two hundred years ago when the Capitol cornerstone was put in place, here is the Majority Leader of the United States Senate, the Honorable George Mitchell. [Applause]

Senator MITCHELL. Mr. President. Mr. Vice President. Friends. Much has changed in the two hundred years since the cornerstone of this Capitol was laid. Then there were 5 million Americans, 15 states, with 30 senators, and 106 representatives. Now, of course, there are 250 million Americans, 50 states, 100 senators, 435 members of the House. But more striking than the change is that so much is the same.

In 1793 the government faced a serious national debt. In 1993, it still does. In 1793 umbrella makers in Philadelphia petitioned Congress for protection against imported French umbrellas. We still get such petitions.

But the most important thing that hasn't changed is the American commitment to liberty. The crowning achievement of the early American government was the Bill of Rights, the first ten amendments to the Constitution. They remain today, as they have been for two centuries, the most concise and eloquent statement ever written by human beings of the fundamental rights of free men and women against the power of government.

The Bill of Rights is the defining act of American history. The Constitution was ratified, and this nation was launched on the bedrock principle of individual liberty. That is, as expressed in the Bill of Rights, both uniquely American and universal in its reach. It is that spirit which we celebrate today.

This building, the United States Capitol, is the preeminent physical symbol of freedom in the world. But more important even than this great structure is the spirit which led to its construction and which inhabits it today. We are fortunate and very proud to be Americans. Citizens of the most free, the most open, the most just society in all of history. That is our benefit. With that benefit comes the responsibility to act so that two hundred years from today Americans and people all over the world will still admire this building. And Americans will still live in freedom protected by an unchanged and an unchangeable Bill of Rights. On this brilliant day it's obvious that God is smiling on America. May it always be so. [Applause]

DAVID MCCULLOUGH: The United States has had three capitols since 1789. Here to tell us about them is the Republican Leader of the United States Senate, the Honorable Bob Dole. [Applause]

Senator DOLE: Mr. President. Mr. Vice President. My colleagues. Distinguished guests. We gather this morning on the grounds of the third Capitol of the United States. When the First Congress convened in 1789 it met in New York City occupying the former city hall. That location was only temporary, however, as the recently ratified Constitution provided for the establishment of a permanent capital city. A location for that city was selected in 1790 when Congress passed the Residence Act directing by the year 1800 that the government should occupy a new Federal district along the Potomac River.

While the new capital city was under construction, Congress moved from New York to Philadelphia where they carried on the task of building a democracy. At the same time, hundreds of workmen were building a new Federal city on the Potomac. In his plan for the city, Pierre Charles L'Enfant placed the Capitol on the crest of what was then known as Jenkins Hill, a site that he described as a "pedestal waiting for a monument."

On September 18, 1793, a large and boisterous crowd gathered here to watch an elaborate Masonic ceremony highlighted by placing the Capitol cornerstone by President George Washington. As many of you know, my colleague Senator Strom Thurmond who was here on that day [laughter] refuses to reveal just exactly where the cornerstone is.

The *Alexandria Gazette* reported that the ceremony concluded with fifteen salutes from the artillery, and then "the whole company retired to an extensive booth where an ox of five hundred pounds * * * was barbecued." History will note this is the first time—but certainly not the last—that someone's ox was gored in the United States Capitol. [Laughter] [Applause]

DAVID MCCULLOUGH: To give a certain inimitable slant and perspective on today's proceedings, relating them both to ancient times and modern usage, here is the President Pro Tempore of the United States Senate, the Honorable Robert C. Byrd.

Senator BYRD: Mr. President. Mr. Speaker. Mr. Justice Blackmun. My fellow Americans. The United States Capitol building is a visible symbol of America's link to ancient Rome. Of all that made Rome great, nothing was more basic than Rome's noble attachment to a mixed constitution of checks and balances and separation of powers that lifted her from the lowest beginnings to that radiant summit of splendor and magnificence that has never ceased to attract the admiration and the wonder of the world.

But when that devotion to a mixed constitution was lost, the short sword of the Roman legions and the wooden galleys that plied the Adriatic could no longer save her, and the ancient empress of the classical world sank into a hopeless impotence and eventual obscurity as a military power and territorial empire.

Two hundred years ago, our Forefathers laid the cornerstone for this building, within which is domiciled the branch of government that springs directly from the people and from whom it derives its constant renewal, and which, only a few years before, had been set in place by the Framers of the Constitution, the cornerstone of this republic.

As we today commemorate with pride the cornerstone-laying of this temple that houses the "people's branch," let us renew afresh our fealty to the American constitutional system, the foundation upon which this republic rests. We received it from our fathers. Let us as surely hand it on to our sons and daughters and their children who will stand in our place a hundred years from now—a system of government under a mixed constitution that raised this American republic to a summit more glorious than ancient Rome ever saw. [Applause]

Now, ladies and gentlemen, I have the distinct pleasure and the high privilege of presenting to you the Vice President of the United States. [Applause]

The VICE PRESIDENT: Thank you, Senator Byrd. Mr. President. Distinguished members of the Congress. Ladies and gentlemen. Of all the symbols of our republic, none moves our hearts the way *this* Capitol building moves our hearts. We have heard about the history of this structure, and I would like to add only a brief description of some small moments in the recent history of this structure.

As President of the Senate, I still have the privilege—sometimes—of greeting visitors who are seeing this structure for the first time. And for the past seventeen years, I've had the privilege of sometimes greeting school children who come from all over the United States to stand in front of this building and look up at the Capitol Dome. It has *never* ceased to stir me, white against the sky with the Statue of Freedom at the top. The reaction of those children who still come—almost every day—to see this site is testament to the living history of this building.

It was startling these last few months to look up and see scaffolding there. And it's wonderful to see the Statue of Freedom back this morning. Our country is very different now than that first day when she was hoisted into place in 1863, but it is a comfortable feeling to see this old friend back securely in place ready to look out over Washington for another 130 years and more. A reminder to all of us that as we look ahead to the future we must never forget the legacy of our past. [Applause]

DAVID MCCULLOUGH: Ladies and gentlemen, representing the Judicial Branch of our government, here is the Senior Associate Justice of the United States Supreme Court, the Honorable Harry A. Blackmun.

Mr. Justice BLACKMUN: Mr. Chairman. Mr. President. Mr. Vice President. Distinguished participants. Ladies and gentlemen. Your Supreme Court of the United States has very substantial roots in this building. Although the Judiciary is one of three branches of our government, for the first 145 years of its existence the court had no home of its own. In

a building sense, during that period of almost a century and a half, it distinctly was an orphan.

The Court first convened in February 1790, at the Royal Exchange in New York City, then the seat of government. But the following year, the seat was in Philadelphia; and the court assembled there. First, at Independence Hall; and then, at the City Hall. It arrived in Washington in 1801; and, until 1809, sat in various, small, and rather inadequate rooms in the Capitol building. This building.

Somewhat more acceptable quarters outside the building were found for the 1809 term. But the Court returned here in 1810. It then was allowed to use the original Senate Chamber when the Senate moved upstairs to larger quarters. And that chamber, now beautifully restored and available for visiting, was its courtroom for fifty years except for the period of unpleasantness during the War of 1812, when the building was burned by the British with official court papers used as tinder. It is in *that* room here in *this* building that Chief Justice Marshall and Chief Justice Taney successively presided. And it is there that Daniel Webster argued the *Dartmouth College* case, and the *Dred Scott* case was argued and announced.

Once again, however, in December 1860, the Court followed the Senate and inherited its chamber upstairs when that body moved into the Capitol's North Wing it presently occupies. The Court used the second Senate chamber for seventy-five years, from 1860 to 1935, when it moved into its present building. I think one may say—fairly—that the Court's own edifice came into being primarily due to the influence of Chief Justice William Howard Taft, who had been President of these United States.

The site on which today's Supreme Court stands has its historical interest, too, related to this building. It is there that the so-called Brick Capitol stood. The Brick Capitol was used by Congress from 1815 to 1819, while this one was being repaired. And it is there that Henry Clay presided as Speaker of the House. And it is there that Chief Justice Marshall administered the oath of office to President James Monroe in 1817. And on that site was located the capitol prison during the War Between the States. Incarcerated there were Belle Boyd, the noted confederate; and Captain Henry Wirz of the Confederacy's own Andersonville prison.

Thus, despite the physical separation of the court's present building from the Capitol building, the Court has deep roots here in *this* building. It feels that it has been a distinct part of the edifice. It knows that long was this building its original home, and it is honored to participate in this celebration today.

The Statue of Freedom is again in place. And, again, it faces east. Does she look over to the Court as the symbol of the judiciary with the expectation and the challenge that its decisions be wise and neutral and correct? I like to think so. And I also like to think that the judiciary always will maintain its proper role in the government of this country which, despite its warts and despite its defects, we all so dearly love.

The Statue of Freedom is on its pedestal and rightly demands the best from all of us. May we fulfill that very precious promise. [Applause]

DAVID MCCULLOUGH: For a musical interlude, here is the United States Navy Band and Senior Chief Musician Chuck Yates, for their performance of *The Capitol*.

[Musical interlude.]

DAVID MCCULLOUGH: President Clinton has designated the month of October as National Arts and Humanities Month. In that spirit, we present our next speaker, reading from her specially prepared poem, *Lady Freedom Among Us*, the Poet Laureate of the United States, Rita Dove.

RITA DOVE: Mr. President. Mr. Vice President. Distinguished guests and friends, I offer this poem written for the glory of this day.

LADY FREEDOM AMONG US

Don't lower your eyes
Or stare straight ahead to where
You think you ought to be going

Don't mutter *oh no*
Not another one
Get a job fly a kite
Go bury a bone

With her oldfashioned sandals
With her leaden skirts
With her stained cheeks and whiskers and heaped up trinkets
She has risen among us in blunt reproach
She has fitted her hair under a hand-me-down cap
And spruced it up with feathers and stars
Slung over one shoulder she bears
The rainbowed layers of charity and murmurs
All of you even the least of you

Don't cross to the other side of the square
Don't think *another item to fit on a tourist's agenda*
Consider her drenched gaze her shining brow
She who has brought mercy back into the streets
And will not retire politely to the potter's field

Having assumed the thick skin of this town
Its gritted exhaust its sunscorch and blear
She rests in her weathered plumage
Bigboned resolute

Don't think you can ever forget her
Don't even try
She's not going to budge

No choice but to grant her space
Crown her with sky
For she is one of the many
and she is each of us

DAVID MCCULLOUGH: On four separate occasions between 1793 and 1958 ceremonial events have marked the placement of Capitol cornerstones. Here to tell us about one of the most significant of those occasions is the first of our three House leaders, the Republican Leader, the Honorable Robert H. Michel.

REPRESENTATIVE MICHEL: Mr. President. Mr. Vice President. Mr. Speaker. My colleagues and fellow Americans. It's a very great honor for all of us to be part of this historic ceremony. I'd like to devote my brief remarks this morning to the cornerstone of 1851, which began the enlargement of the Capitol Building.

The enlargement was necessary because, as has been mentioned by the distinguished Majority Leader, between 1793 and 1850, the number of states in the Union had more than doubled; and as the nation grew, so did the Congress.

It was evident that the Capitol building would have to be enlarged, and a plan for the North and South Wings was devised.

And so, on the Fourth of July, 1851, with church bells ringing and artillery salutes from various spots in the city, the cornerstone ceremony took place.

The principal address on that occasion was given by the great orator, Daniel Webster.

He spoke brilliantly for two, solid hours. This was, of course, before the age of the thirty-second sound bite; and, thank heaven, none of our participants today has been prone to emulate Webster.

Webster deposited in the cornerstone a sheet of paper on which he wrote to posterity the following:

"* * * the Union of the United States of America stands firm, that their Constitution still exists unimpaired * * * growing every day stronger and stronger in the affections of the great body of the American people, and attracting more and more the admiration of the world * * *"

It seems to me that the 1851 cornerstone says something very wonderful about our country.

We Americans have never seen *permanence* and *change* as contradictory terms but, rather, as complimentary parts of our national vision.

The new addition to the Capitol Building in 1851 certainly changed this building! But in doing so, it helped to keep it a permanent part of our national life.

We Americans retain the permanent things in our national life only when we are willing to strengthen them through change.

And, in Webster's words, "growing stronger and stronger every day."

This is the great paradox—and the great blessing—of American freedom and progress.

The 1851 cornerstone symbolizes that blessing, and I am glad we can all honor it here today. [Applause]

DAVID MCCULLOUGH: Ladies and gentlemen, today we have witnessed the return of Freedom to her summit. This, it would seem to me, would make a wonderful opportunity right now to express our appreciation and our admiration to the poise and the skill of the pilots and the technicians who made that thrilling event possible. [Extended applause]

So much of what we see, so much of what we are told is history somehow, and often for good reason, seems unreal. What we saw happen this morning was *real*.

For an account of the statue's early history, here is the Chairman of the Committee on House Administration, the Honorable Charlie Rose.

Representative ROSE: Mr. President. Mr. Vice President. Mr. Speaker. Mr. Justice Blackmun. Distinguished colleagues of the Senate and the House: It was less than two weeks after President Lincoln's *Gettysburg Address*, with its emphasis on binding up the nation's wounds and moving forward in brotherhood and unity, that the Statue of Freedom was first elevated to her place of inspiration atop the Capitol Dome.

Today, as our nation embarks on a new journey of regeneration and healing, it is fitting that the statue is restored, refreshed and reconsecrated. This symbolic ceremony comes at a time when the American people, our President, and our Congress are dedicated to the renewal of our beloved United States.

The crest of an eagle's head crowning the Statue is an ancient symbol of human aspiration toward universal good, of being reborn, through enlightenment, with higher awareness. Let this statue inspire our efforts.

When he left this country and returned to France at the end of our Revolution, General Lafayette said, "Freedom has found a home, and it is in this country of the United States."

Thomas Jefferson envisioned this capitol two hundred years ago, when it was dedicated, as a living shrine of democracy. It would demonstrate the principles of self-government to *all* humanity and inspire emulation throughout the world.

The Statue we honor today, a feminine figure, suggests the female role of healing; her sword depicting the defense of our values. There is no woman speaker on our program today; but the statue herself speaks louder than words.

The Holy Bible refers to a city on the hill. As we regard this statue towering above our Capitol Building, briefly recall that we are enjoined to let our light shine forth before all that they may see our good works. Standing on her own two feet, as Americans strive to do, the statue suggests that we move with individualism and autonomy to build together a better American community for the future, a society based upon reconciliation, on sharing, caring, and love for one another.

As we look above, we gather strength and courage from our past, as the spirit of freedom guides us toward a future that fulfills the dreams of those who dedicated this Capitol Building 200 years ago.

Welcome home, Lady Freedom. It's good to have you back on the dome and in our hearts. Thank you. [Applause.]

DAVID MCCULLOUGH: Our final congressional speaker will discuss the Capitol as a symbol of representative democracy. It is my great privilege to introduce the Speaker of the United States House of Representatives, the Honorable Thomas S. Foley.

The SPEAKER: Thank you, Mr. McCullough. Two centuries ago the first president of the United States, George Washington, came to this site to lay the cornerstone of the Capitol. We are deeply honored that the forty-second president of the United States has returned to help us celebrate.

And to you, Mr. President, and to the Vice President, and to the Joint Congressional leadership, and to Justice Blackmun, and the Architect of the Capitol, and to all the architects, workers, and engineers, and to the wonderful crew of the helicopter and all who placed Freedom back on her perch today, and to Rita Dove, and to all the citizens who contributed by the purchase of their commemorative coins to the elevation of Freedom today, we thank you for coming to make this a celebration of America. [Applause.]

This Capitol, this majestic architectural metaphor for the growth of a nation, adorned by the Statue of Freedom, is a symbol of an extraordinary experiment in representative democracy, and a beacon to people around the world who seek equal rights, justice, and freedom.

Today, the 103rd Congress meets here, and I have the honor to be the forty-ninth Speaker of the House. But, in November of 1800, Theodore Sedgwick of Massachusetts, the seventh Speaker, came with representatives from the sixteen United States to a wilderness town of woodland, swamp, and half-finished buildings to convene the Sixth Congress in the new Capitol where masons were still working on the first sections of the building.

As I stand here and look westward, I can see what Speaker Sedgwick could only imagine—a vista of the two hundred years of democracy—the monuments and museums that trace the political and cultural history of this nation stretched out before us. When Speaker Sedgwick looked westward in 1800, he could see only the plans of Pierre L'Enfant beginning to take shape from the forest, and the White House in the distance.

When he convened the Sixth Congress, only one wing of the original Capitol was finished, but its majesty and all that it represents were already set in stone. American democracy was in its infancy. This building was in progress, and both have sometimes gracefully, and sometimes not so gracefully, adjusted to the changing tides of history. The Capitol has survived war and destruction. It has survived restoration, reconstruction, and redesign. It is, in fact, an amalgamation of many buildings, fashioned from many materials—from limestone to cast iron, sandstone to steel, marble, and brick.

In so many ways the Capitol, with the Statue of Freedom on its dome, symbolizes not just who we are as a people, but what we are as a nation: a diverse people unified under one lasting principle that today we have raised above everything else: "Freedom."

Under the watchful eye of Freedom, in this temple of democracy, echo the voices of history—voices that rose to the challenges of war and peace, slavery and freedom, and for the preservation of the Union itself—voices of courage, dedication, sacrifice, and honor that shaped this Nation.

Speaker Theodore Sedgwick could never have imagined today's vision from Capitol Hill—the National Gallery, the Museum of American History, the Lincoln Memorial, the Air and Space Museum * * *. And, above all, the Capitol itself, the importance of which was most dramatically felt in 1865 when delegations representing the governments of the United States and the Confederacy met on shipboard at Hampton Roads to discuss the end of the Civil War.

At that historic moment, the first thing former Senator Hunter of Virginia, who represented the Confederacy, said to Secretary of State William Seward was, "How is the Capitol? Is it finished?"

Like democracy this Capitol will *never* be finished. It is a work in progress—a moving picture of a dynamic government. In the new book, *The United States Capitol*, by Fred and Suzy Maroon, published this year to commemorate the bicentennial, is this quote:

"Over the course of its two hundred year history the United States Capitol has grown, sometimes fitfully and sometimes gracefully, from being the mere symbol of an idea * * * to being a cherished monument that embodies the nation's rich remembrance of the past, and high hopes for the future. In that respect, it is timeless."

I now have the honor to present a special edition and bound version of that book to our most distinguished speaker and our most distinguished guest. It is my high honor and great privilege to present to you the President of the United States. [Sustained applause.]

THE PRESIDENT: Thank you. Thank you, Mr. Speaker. Mr. Vice President. Distinguished leaders of the House and Senate. Mr. Justice Blackmun. My fellow Americans.

We come here today to celebrate the two-hundredth birthday of this great building, the cornerstone of our republic. We come here to watch our Capitol made whole 130 years after the beautiful Statue of Freedom was first raised above this Capitol.

This is a moment of unity in this great city of ours so often known for its conflicts. In this moment, we all agree, we know in our minds and feel in our hearts the words that Thomas Jefferson spoke in the first inaugural address ever given on these grounds. He said that people of little faith were doubtful about America's future, but he believed our government was the world's best hope.

What was that hope? The hope that still endures that in this country every man and woman without regard to race or region or station in life would have the freedom to live up to the fullest of his or her God-given potential; the hope that every citizen would get from government not a guarantee but the promise of an opportunity; to do one's best; to have an equal chance; for the most humble and the most well born, to do what God meant for them to be able to do.

That hope was almost dashed in the great Civil War—when the Statue of Freedom was raised. Many people questioned whether Abraham Lincoln should permit this work to go on. But he said during the war, when so many thought our country would come to an end that, if people see the Capitol going on, it is a sign we intend the Union to go on.

In 1865 Abraham Lincoln gave the first inaugural address ever given under the Statue of Freedom. And he said,

"With malice toward none, with charity for all, with firmness in right as God gives us to see the right, let us strive on to finish the work we are in * * *."

And in that, the greatest of all presidential inaugural addresses, Abraham Lincoln gave us our charge for today. For the work of keeping the hope of America alive never finishes.

It is not enough for us to be mere stewards of our inheritance. We must always be the architects of its renewal. The Capitol is here after two-hundred years, this beautiful Statue of Freedom can be raised, renewed after 130 years, because our forbearers never stopped thinking about tomorrow.

We require the freedom to preserve what is best and the freedom to change, the freedom to explore, the freedom to build, the freedom to grow. My fellow Americans, I tell you that perhaps the biggest of our problems today is that too many of our people no longer believe the future can be better than the past. And too many others, most of them young, have no connection to the future whatever because the present is so chaotic. But the *future*, the future, has a claim on all of us.

We have, because of our birthright as Americans, a moral obligation to face the day's challenges and to make tomorrow better than today. All we really owe to this great country after 200 years is to make sure that 200 years from now this building will still be here and our grandchildren many generations in the future will be here to celebrate it anew.

Thank you, and God bless you all. [Applause.]

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The presence of a quorum having been questioned, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). Without objection, it is so ordered.

Mr. DOMENICI. Madam President, parliamentary inquiry. Are we open for matters as if in morning business?

The PRESIDING OFFICER. That is correct.

PROHIBITION OF FUNDS FOR LOBBYING

Mr. DOMENICI. Madam President, I have a number of responsibilities here. One of my new ones is to be the ranking Republican member of Appropriations Subcommittee on Commerce,

Justice, State, and Judiciary and related agencies. Within the purview of that subcommittee lies the Small Business Administration as well as the Department of Commerce. The entire Department gets its funding through that subcommittee's appropriations bill.

In that light, I have a statement that I would like to make so that the Senate will know what I have requested of the Secretary of Commerce and the Small Business Administration.

Yesterday, the President presented to the Congress his legislative proposal for health care reform. There will be a lot of debate on this issue in the coming year in the Congress, on the airwaves, and in the print media. It is a very complex issue, and we will be looking to many people for information on it, and analysis of it. The President's health care plan will be part of that as will other health plans.

I am concerned, however, that the administration may be using funds that were appropriated to Department of Commerce and the Small Business Administration to indirectly lobby in favor of this plan which I think may very, very well be a violation of the provision of law that prohibits the use of such funds for lobbying activities. I hope the administration will look into this. I make no accusations as to why they did it or whether some might not even have known that the law existed. But I think the facts are pretty clear, and so is the law.

Section 1913 of title XVIII of the United States Code states:

No part of the money appropriated by any enactment of Congress shall be used directly or indirectly to pay for any printed or written material or other device intended or designed to influence any Member of Congress, to favor or oppose by vote or otherwise any legislation or appropriation by Congress whether before or after the introduction of any bill proposing such legislation or appropriation.

Last month the Small Business Administration and the Department of Commerce prepared and published a brochure entitled "The Health Security Act: Benefits for Business." This brochure is not a general description of existing health care plans, their impact on small businessmen and women. It is not an informational brochure discussing various options for health care for the future. It is purely and simply a publication advocating the President's health care plan, a plan I might add which was not submitted to the Congress until yesterday. The brochure includes numerous references to the Health Security Act and clearly is intended to be part of the effort to generate political support for the President's health care legislation.

At the beginning of this brochure, a letter from the President is included which states in part,

The battle for health care reform will be fierce. Special interests who benefit from the current system will try to drown out your voice and keep us on a road that will only increase your costs and decrease America's competitiveness.

The clear implication is that those who oppose the President's health care plan in whole or in part are part of these special interests. The SBA is also establishing a toll-free number to provide information not on health care in general, but on the Health Security Act in particular. A memorandum sent by the agency to staff of the Appropriations Committee states, "We are planning to provide interested small businesses preliminary estimates of health care costs and coverage under the Health Security Act through a 1-800 information line."

Again, Madam President, this is an explicit effort to generate support for the President's Health Security Act with the use of appropriated funds. In some ways this is a minor matter. The amount of direct Federal funds involved in printing and distributing this material probably does not exceed $100,000. However, it is troubling that this administration has attempted to use this brochure to influence the public debate and indirectly lobby for its legislative package by using the scarce resources of the Small Business Administration that many of us I am sure would think could be better used for other purposes.

It is interesting to note that 10,000 of these brochures were provided to the Democratic National Committee for distribution and dissemination. Clearly, the SBA and the Commerce Department intend that these brochures be used for political purposes.

This administration took office professing to believe in high ethical standards for public officials. And I do not know, frankly, whether this incident illustrates mere incompetence. It may very well be that. Or is it an attempt to influence the political debate and thereby the Congress? In either case, I ask that Secretary Brown and Small Business Administrator Erskine Bowles to repudiate this effort and to take immediate steps to cease using appropriated funds to print and distribute this brochure.

Madam President, Republicans are interested in a bipartisan, cooperative effort to reach a compromise on health care reform. I think I heard that said by both Democrats and Republicans yesterday. I think I heard it said unequivocally by our President. Efforts by the administration to make this a partisan political debate, and turn it into that, do not help us reach that end.

I ask unanimous consent that two letters I sent to Secretary Brown and Administrator Bowles be printed in the RECORD at this point, as well as a memorandum from the SBA on the costs and distribution of this brochure, the pages of the brochure, and the memo from the Small Business Administration to John Shank, the Republican clerk.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 27, 1993.

Hon. RON BROWN,
Secretary of Commerce, Department of Commerce, Washington, DC.

DEAR MR. SECRETARY: I am writing to bring to your attention a possible problem involving material being printed and distributed jointly by the Department of Commerce and the Small Business Administration.

The two agencies have prepared a brochure entitled "The Health Security Act", a copy of which is enclosed. The brochure is a description of the President's health care plan, which as you know has just been formally transmitted to the Congress.

I am concerned that the publication and distribution of this brochure with appropriated funds may violate the provisions of 18 U.S.C. 1913, which stats that "(n)o part of the money appropriated by any enactment of Congress shall . . . be used directly or indirectly to pay for any . . . printed or written material, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress".

I am writing to ask you to review this matter immediately and, if you determine the above provision of law is being violated: (1) take action to identify those individuals who may have been involved in said violation; and (2) cease further publication and distribution of this brochure.

Thank you for your attention to this matter.

Sincerely,

PETE V. DOMENICI,
Ranking Minority Member, Subcommittee on Commerce, Justice, and State, the Judiciary and related agencies.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 27, 1993.

Hon. ERSKINE B. BOWLES,
Administrator, Small Business Administration, Washington, DC

DEAR ADMINISTRATOR BOWLES: I am writing to bring to your attention a possible problem involving material being printed and distributed jointly by the Department of Commerce and the Small Business Administration.

The two agencies have prepared a brochure entitled "The Health Security Act", a copy of which is enclosed. The brochure is a description of the President's health care plan, which as you know has just been formally transmitted to the Congress.

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Thank you for your attention to this matter.

Sincerely,

PETE V. DOMENICI,
Ranking Minority Member Subcommittee on Commerce, Justice, and State, the Judiciary and related agencies.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, October 8, 1993.

To: John Shank
From: Kris Swedin
Re: Questions on Brochure.

This is in response to your inquiry on a brochure "The Health Security Act—Benefits to Business." This publication was created jointly by the Small Business Administration and the Department of Commerce to educate the business community, and small firms in particular, about the proposed Health Security Act and its estimated effect on their businesses.

Our initial publication order was for 150,000 copies which were produced between Sept. 27–29 and delivered to SBA offices and the Department of Commerce and other organizations committed to distributing them, for informational purposes, to small business owners (see enclosure). We have not yet received the Government Printing Office bill for this order but they estimate it to be $67,000. The Department of Commerce has agreed to reimburse SBA for their portion of the order, about 25,000 copies.

The demand for this information brochure has been very high from our field offices and we have ordered a second printing of 50,000 copies which we expect to receive soon at an estimated cost of $15,000. We are also making the brochure available for reading and downloading through SBA's On-Line electronic bulletin board. This E-mail service represents no additional cost to the Agency beyond the initial set-up work, which was handled by SBA staff.

In addition we are planning to provide to interested small businesses preliminary estimates of health care costs and coverage under the Health Security Act through a "1–800" information line similar to SBA's existing Answer Desk. To date, we have outfitted a room for this information service with on-hand computers and miscellaneous purchases of related devices such as telephones and a FAX server. All of this equipment will be used within SBA at the conclusion of this information service project.

As you know, health care reform is a complex issue which will have significant effects on small business. I believe it is incumbent on SBA to provide our customers with the most current, accurate and objective information available to us. The Health Security Act brochure, our 1–800 information service, and the efforts of our staff in working on this issue are intended to do just that.

Distribution of brochure—The Health Security Act: Benefits for Business

Department of Commerce	23,800
Congressional Offices (with Commerce)	5,000
SBA Regional Offices	10,000
SBA District Offices	53,000
SBA Branch Offices	6,300
Portland, OR (town hall meeting)	350
Cleveland, OH (town hall meeting)	350
Des Moines, IA District Office	400
New York District Office	400
Houston, TX District Office	500
Houston, TX (town hall meeting)	350
U.S. Coast Guard	400
Other Executive Departments/ Agencies	300
SBA Congressional Office	6,100
White House Office of Communications	1,000
White House Office of Public Liaison	4,000
Democratic National Committee	10,000
Mailing to SCORE, SBDCs and WBOs	15,200
(Service Corps of Retired Executives, Small Business Development Centers, Women's Business Organizations) Mailings to miscellaneous small business trade associations	1,200

Costs incurred to date:

Printing (from GPO estimates)	$82,000
Telephone and headsets	[1]5,000
FAX server	[1]4,000
FAX lines	400
Phone lines and cabling	[1]2,000
FAX machines (2)	[1]7,000

[1] Equipment will be retained for SBA use.

THE HEALTH SECURITY ACT—BENEFITS FOR BUSINESS

The Health Security Act preserves our employer-based, privately-financed system of health care. It will control the costs that are hurting American businesses' ability to compete. And it will help small business owners provide affordable insurance for themselves, their employees, and their families.—PRESIDENT BILL CLINTON.

MY FELLOW AMERICANS: Every American must have the security of, comprehensive health care benefits that can never be taken away. That's what our health security plan is all about.

America's private sector is known for its ability to create permanent, productive, private-sector jobs, and offers many benefits, including health care coverage, to workers. But that ability has been threatened in recent years by rising health care costs.

The Health Security Act reaffirms an American principle: that our high-quality health care system should be rooted in the private sector and should respond to market forces.

The Health Security Act preserves our employer-based, privately financed system of health care. It will control the costs that are hurting American businesses' ability to compete. And it will help small business owners provide affordable insurance for themselves, their employees, and their families.

This brochure explains what our health security plan will provide and why we think it is so important.

The battle for health care reform will be fierce. The special interests who benefit from the current system will try to drown out your voice and keep us on a road that will only increase your costs and decrease America's competitiveness.

If you speak out and together we accept the challenge and responsibility, I am convinced that we can provide affordable health care to every American.

BILL CLINTON.

THE AMERICAN HEALTH CARE CRISIS

The crisis

Coverage

One out of four Americans—63 million people—will lose their health insurance for some period during the next two years. Today, more than 2 million Americans lose their insurance each month.

Losing or changing a job often means losing your health insurance, and becoming ill or living with a chronic medical condition can mean not being able to buy insurance at all.

No civilized society can justify this.

Cost

Left unchecked, by the end of the decade, rising health care costs will consume nearly 60 percent of all businesses' pre-tax profit. This spiraling growth in costs robs workers of wages, fuels the federal deficit and puts affordable health care out of reach for millions of Americans.

Complexity

The excessive paperwork now required by the system confuses and frustrates doctors, nurses, patients, hospitals and employers. Bureaucracy drives up costs and takes time away from direct patient care. So it is not surprising that the number of health care administrators is growing four times more quickly than the number of doctors in the U.S.

The response

Security

The Health Security Act provides all Americans with a guaranteed comprehensive benefits package of medical services delivered in hospitals, clinics, professional offices, and community health centers. The Health Security Act provides employers and employees with health care they can afford, regardless of their circumstances.

Savings

Health care costs are rising faster than other sectors of the economy. That rate of growth in health care costs robs workers of wages, reduces business investment capital, fuels the federal budget deficit, and puts affordable care out of reach for millions of Americans.

Simplicity

With a uniform, comprehensive benefits package offered to all Americans, businesses and consumers will no longer be faced with a confusing array of policies and forms. Employers will be relieved of the administrative responsibility for wading through health care plans, negotiating competitive premiums and administering claims. A simple billing format that converts the current paper-based claims process to a computerized, electronic system will cut costs and time.

Examples

Today: Charles, an electronic equipment manufacturer, pays $420,000 a year for health insurance. He has 130 employees and pays an average annual salary of $28,600.

Reform: Charles' premium cost will be, at most, $293,722 (7.9 percent of his payroll), saving him $126,278. And his employees will have rock-solid, comprehensive health care.

Today: Danita and her husband have a small construction company and they pay $6,000 a year for health insurance. She and her husband receive an annual salary of $12,500 each.

Reform: Their premium costs will be at most $1,100 (4.4 percent of payroll), saving them $4,900. In fact, Danita could provide insurance for 4 additional employees and their families for what it costs her to insure her family today.

The problem

All Americans, those who have health insurance and those who do not, understand that serious problems exist in the health care system:

Thirty-seven million Americans have no insurance at all. Another 22 million have inadequate coverage.

One out of four—or 63 million—Americans will lose health insurance for some period during the next two years.

Losing or changing a job often means losing insurance. Becoming ill or living with a chronic medical condition can mean losing insurance coverage or not being able to obtain it at all.

Health care costs are rising faster than other sectors of the economy. Left unchecked, rising health care costs will consume almost two-thirds of the increase in the gross domestic product (GDP) for each American for the rest of the decade. Costs are projected to grow from 14 percent of the GDP to 19 percent, even without any expansion of coverage to insure all Americans.

Bureuacracy now overwhelms employers and health providers and drives up costs. Studies show that a significant amount of the cost of running a typical doctor's office or a hospital is administrative.

Quality is uneven. Because no clear standards define best medical practice, lack of information and inadequate attention to prevention make the quality of health care across America uneven. Employers and consumers have no reliable information with which to measure the quality of their health care.

Coverage for long-term care is inadequate. Many elderly and disabled Americans enter extended care facilities when they would prefer to remain at home. Families exhaust their resources trying to provide care for relatives.

Many Americans cannot obtain quality care. In many rural and inner-city areas, shortages of doctors, clinics and hospitals prevent Americans from obtaining quality health care.

Fraud and abuse cheat everyone. Exorbitant charges, fraud and abuse undermine both quality and access to care, and cost $80 billion each year—nearly 10 cents of every dollar spent on health care.

Everything that is wrong with the American health care system is threatening everything that is right with the system. We must fix the system, while preserving every American's right to choose a doctor and obtain high-quality care, before the system self-destructs.

Small businesses face higher administrative costs

As much as 40 cents of every dollar which small businesses spend on health insurance is consumed by administrative costs.

Firm size and Administrative costs as a percentage of claims by firm size:

1 to 4, 40 percent; 20 to 49, 25 percent; 100 to 499, 16 percent; more than 10,000 5.5 percent.

WHAT IS THE HEALTH SECURITY ACT?

Overview

The Health Security Act will guarantee comprehensive health coverage for all Americans and legal residents, regardless of health or employment status. Health coverage will continue without interruption whether Americans change or lose their jobs, move, become ill or confront a family crisis. An employer's ability to afford premiums for all their employees is not dependent on the health status of a single employee.

The Health Security Act builds on our current employer-based system and asks all Americans and their employers to take responsibility for their health coverage. In return, they will have the security of knowing that they will always be covered.

The Health Security Act organizes the private market for health insurance to create incentives for health plans to compete on the basis of quality, service and price.

How It Works

The Act builds on our employer-based, privately financed system of health care. Employers and consumers will band together in large purchasing pools to strengthen their bargaining power in the marketplace. Health providers will be forced to compete for business, leading to lower prices and improved quality. This will shift the power of the marketplace in favor of employers and their employees.

Everybody's Role

Implementation will be managed at the local level by employers, employees and the states. This will create flexibility at the state level for employers and employees to design and control the local health care system. An independent National Health Board acts as the board of directors for the health care system, setting national standards for comprehensive benefits, quality and cost. Health plans must meet national standards on coverage, quality, and access to care, communities will tailor the new system to local needs and conditions, opening the way for local innovation within a national framework.

How Will the Cost of Health Premiums Be Paid?

Employers

Under reform, employers contribute 80 percent of the insurance premiums, calculated on the weighted average premiums among health plans in their area.

Under the Health Security Act, employer contributions for insurance premiums are capped at 7.9 percent of payroll. The cost of providing health coverage declines for most firms that currently provide insurance. Smaller businesses (those with fewer than 50 employees) with low wages will receive discounts of between 30 percent to 80 percent compared to what the average big business pays.

Employees

Employees pay the difference between the employer contribution and the premium of their chosen health plan. If they choose a plan that charges an average premium, they may pay up to 20 percent, unless their employer chooses to make a higher contribution.

How Employees Participate

Every employee will receive their own Health Security Card which will provide access to high quality, comprehensive health care that can never be taken away.

Caps on employer contributions

[Average wage in thousands of dollars]

	Percent
$0 to $12	3.5
$12 to $15	4.4
$15 to $18	5.3
$18 to $21	6.2
$21 to $24	7.1
$24 plus	7.9

Small Firms (fewer than 50 workers): Caps are placed on their premium contribution ranging from 3.5 percent of payroll to no more than 7.9 percent, depending on the average wage of that firm.

Large Firms (more than 50 workers): Not required to pay more than 7.9 percent of payroll for their employee's premiums.

Employer contributions are limited to a percent of their payroll costs, depending on their size and average wage. Government subsidies cover the remainder.

BENEFITS FOR BUSINESS

Reduces the cost of insurance for employers

The Health Security Act will reduce most employers' direct out-of-pocket costs, because it:

Guarantees that no employer in a regional alliance will pay more than 7.9 percent of payroll (in many cases, employers' actual premium costs will be below 7.9 percent of payroll and the cap will act only as a ceiling on costs);

Offers greater discounts (30% to 80%) to the smallest businesses and to low wage employees;

Increases the buying clout of small- and medium-sized companies through their participation in health alliances;

Ends insurance abuse: no more occupational redlining, restrictions on pre-existing conditions, or discrimination against small businesses;

Allows larger employers to continue to manage their own health care insurance programs;

Reduces the burden of early retiree health care costs by supporting the employer's share of early retiree premiums; and

Reduces the health care premiums for workers' compensation.

Increases consumer awareness of the cost and quality of health-care.

Reduces the administrative burden on businesses

Today, businesses face an avalanche of forms and a bewildering array of rules and reviews. Little wonder, then, that the number of health care administrators is growing four times more quickly than the number of doctors in this country.

The Health Security Act will eliminate much of the administrative burden of providing health care coverage, because it:

Provides a single, comprehensive benefits package, eliminating the need for time-consuming annual reviews of benefits packages;

Establishes regional alliances which will enjoy tremendous economies of scale and which will assume much of the administrative burden currently borne by businesses;

Consolidates reimbursement and claims submissions into a simple, easy-to-use format; and

Includes the health care portions of workers' compensation and auto personal injury.

Finances the new system responsibly and fairly

The present system is inequitable and unfairly penalizes companies currently providing health insurance to their employees. The Health Security Act seeks to lift that burden.

The Health Security Act injects fairness into the system, shifting power in the marketplace in favor of employers and their employees:

Today, employers who insure their employees bear a large "cost shift," amounting to $25 billion, from the uninsured. Under reform, that burden is lifted.

Today, in many cases, one employer pays the entire insurance bill for a family, while the employer of a worker's spouse pays nothing at all. Under reform, the costs for families are spread over all firms.

As in the private sector, the growth in major government programs, including Medicare and Medicaid, will be restrained.

If the savings attained through effective competition, reductions in administrative costs, and controls on public spending don't achieve the spending goals, there will be, as a backstop, a limit on the rate of increase in premiums. This brings to health care spending the kind of cost discipline which is commonplace in business.

Maintains the Best Features of the Current System

While the current patchwork of health care coverage is expensive and cumbersome, portions of the current system do provide important benefits to the business community and ought to be retained.

The Health Security Act recognizes the value of important features of the current system. The act:

Offers consumers a choice of at least three types of health plans, one of which must enable employees to choose their own doctors;

Continues to make employer premium payments tax-deductible to employers;

Continues to exclude employer premium payments from an employee's taxable income; and

Allows employers with 5,000 or more employees who self-insure to continue to manage their own plans.

Increases a Company's Ability to Attract and Retain Quality Employees

Under the Health Security Act, businesses of all sizes will enjoy all the benefits of an insured work force; less absenteeism, decreased turnover, fewer errors and a reduced need for training. Each of these elements translates into reduced costs.

By offering comprehensive health care benefits, smaller businesses will be better able to compete for qualified workers.

ADDITIONAL BENEFITS FOR SMALL BUSINESS

The plan is phased in over a period of years as the cost of health care is brought down.

The plan provides caps and discounts to hold down the cost of health insurance so that small businesses can afford to provide their employees with comprehensive, real insurance coverage. In most cases, employers' actual premium costs will be well below the caps, which serve only as a ceiling on premiums.

The plan calls for a significant percentage of the cost of insurance to be paid by the employee so that the employee has the same incentive to hold down the cost of health care as does the employer.

The plan calls for employees to pay more if they choose more expensive health plans so that the employee has a strong incentive to choose economical provider groups.

The plan is combined with the health portion of workers' compensation and brings this skyrocketing expense under control.

The plan enables the self-employed to deduct 100 percent of the cost of health care coverage from their taxes.

The plan removes all the hassle that small business now has to go through in dealing with insurance companies, and frees up valuable time for the small business owner to manage and grow their business.

The plan removes all of the abuses that are currently so rampant in the health insurance marketplace. If one worker in a small business, or a worker's dependent, becomes seriously ill, the business will no longer see astronomical rate increases or lose coverage for the sick employee or dependent.

The plan controls the future rate of growth of health care costs so that the rate of increase of health insurance costs in the future will increase by approximately the rate of growth of wages, as opposed to the skyrocketing costs that small businesses have incurred in the past.

Most importantly, small businesses get rock-solid comprehensive coverage and a guarantee that they will never be in danger of losing insurance again.

And each small business will have a happier, healthier, more productive work force.

QUESTIONS AND ANSWERS

Q. My company already offers health insurance that provides low cost, affordable care. Will it be able to continue and will I be able to remain outside of the health alliance?

A. As long as they adhere to national standards for choice, quality, and comprehensive affordable care, companies with more than 5,000 employees will be able to act as their own health alliances. As the regional alliances prove their ability to reduce costs and provide high-quality health care, larger companies will have the opportunity to join the regional alliances.

Q. I provide a generous health care plan today. Won't this plan require me to provide my employees with reduced benefits?

A. No. Your employees will have a choice among plans which offer the nationally guaranteed benefits package, and you will be able to provide your employees with whatever additional health care benefits you would like.

Q. This plan sounds complicated. Isn't it really going to drive up my administrative costs?

A. No. Health care is admittedly a complicated subject. But today's health care system is vastly more complex than this plan. Administrative costs now consume a large portion of what all businesses pay for health care. One of the goals of this plan is to reduce this burden. The plan achieves significant administrative simplification by using:

one comprehensive benefits package,

a single, standard form for insurance reimbursement claims submission; and

economies of scale for businesses pooled in the alliance.

Q. Doesn't this plan eliminate the tax benefits which I have today?

A. No. Health care premium payments will continue to be tax-deductible for employers and will not be included in your employees' taxable income. If you offer your employees more generous benefits than in the nationally guaranteed benefit package, your premium contributions will continue to be tax-deductible for 10 years, as long as that plan was in force at the beginning of 1993.

Q. I'm afraid that the new system will not really control costs—how can I know that it will?

A. In the last five years, health care costs for employers have risen almost 15 percent every year. Small business costs have risen even more rapidly. That's why a tough approach to controlling costs is a cornerstone of the Health Security Act. Providing health care and a comprehensive benefits package to every American will cut the cost of uncompensated care. Stimulating competition, increasing consumer awareness of the cost and quality of health care, streamlining administration, and changing workers' compensation and auto-insurance health coverage will dramatically reduce costs nationwide. In addition, premium increases in the whole system—including Medicare and Medicaid—will be limited as a backstop to contain costs. This will bring to health care the kind of discipline which is commonplace in business.

Q. My company operates in a number of different states. Today, I provide health benefits for my employees through one system. Under reform, will I have to change the way my employees get coverage?

A. No. Large employers will be free to operate as their own alliances, as long as they adhere to national standards for choice, quality, and comprehensive, affordable care. Small groups of employees in distant locations, however, will have the opportunity to receive health care through the local regional alliances if that is more convenient and cost-effective.

Q. Can we be confident that this plan had been analyzed rigorously and that the financing is reliable?

A. Yes. At the very beginning of this process, the President brought together some of the best minds in the country to help design a financing package for health care reform. The numbers and analyses that underline the President's proposed plan for health security represent months of rigorous work by experts from various federal agencies for the first time. An outside group of economists and actuaries audited the work that was done, and examined and validated the costs and savings projections. These cost and savings projections are solid, credible and conservative.

Q. My company is a large manufacturer experiencing very difficult international competition. Won't this plan add to my costs and make us even less competitive?

A. In fact, just the opposite is true. Today, many U.S. companies operate at a disadvantage in global competition, in part because of the costs of their health insurance. This plan is designed to get costs under control by increasing competition among health providers, increasing consumer incentives to reduce costs, reducing administrative waste, and imposing discipline on both private and public health care spending. Without this disciplined approach to cost control, your health care costs will continue to spiral out of control and make your competitive position even worse. The plan also lifts the burden of early retirees from your company. Generally, the plan was specifically designed to help control your costs and compete globally.

Q. I have heard that health care reform will drive thousands of small companies like mine out of business. How will my business be protected?

A. The Health Security Act was designed specifically to protect small businesses and help them make the transition to a system that guarantees their families and employees the health security they deserve. Businesses will pay no more than 7.9 percent of their payroll for health care. Most businesses' actual premium costs will be less than the 7.9 percent cap, which serves only as a ceiling on premium payments. Smaller businesses (those with fewer than 50 employees) with low wages will receive discounts of between 30 percent to 80 percent compared to what the average big business pays. Most businesses that provide insurance today will enjoy significant cost decreases. Businesses with insurance today will enjoy affordable health insurance for the first time ever, costing as little as a dollar per day for low-wage employers.

Q. I am a small business owner who now buys insurance for my family and my employees. What will this reform do for me?

A. Health care reform will lower costs for most small businesses that now provide insurance to their employees. Today, you pay 35 percent more for your insurance than the big companies do and your premiums increase at a rate more than 50 percent greater than theirs do. After reform, small businesses with low wages will pay between 30 percent and 80 percent less than the average big business. The Health Security Act will control costs, cut the administrative waste and paperwork that drive your premiums up, and make insuring your employees easier and more affordable. Small employers and others will join together in a health alliance to get the same bargaining power in dealing with health plans that large companies enjoy today. In addition, you and your family will gain the security of knowing that you will never lose your insurance coverage.

Q. I own a small business and can't afford to give my employees health insurance. What will this plan do for me?

A. Small business owners already risk enough; they shouldn't have to go without health insurance coverage, endangering their families' health security. Most small businesses today provide their employees with health coverage. Most of the rest would like to provide that benefit but find it impossible in a health insurance system that discriminates against them. The Health Security Act will help small businesses provide insurance to employees at affordable prices through these steps: controlling costs and making insurance more affordable; regulating insurance companies and prohibiting discriminatory pricing against small firms; and offering discounts to small companies and their employees. In the future, many small business owners could be able to provide health insurance for themselves and their employees for less than they pay for their family premiums today.

Q. I am self-employed. Will I start to have the same tax advantages as big companies?

A. Yes. Today, the self-employed can deduct only 25 percent of the cost of their health care premium from their taxes while other employers can deduct 100 percent. In the future, self-employed people will be treated fairly and be able to deduct 100 percent.

Q. Won't I continue to be at a disadvantage to larger companies in the purchase and administration of my health care?

A. No. By pooling with other employers in the regional alliance, you will enjoy the economies of scale in the purchase and administration of health care that only the largest employers have today. You also will be able to provide your employees with a health plan equivalent to what the biggest corporations offer today without being excluded for pre-existing conditions. You also may enjoy the benefit of discounts for both you and your employees which will not be available to the corporate alliances.

Q. I employ lots of part-time workers. Will I be required to pay for all of their health care?

A. No. Businesses will be required only to pay a prorated share of the employer portion of the health care premium for part-time workers. Businesses will be required to pay nothing for the health care of part-time workers who are full-time students and who are under the age of 23.

Q. My company hires independent contractors to perform many services for us. Will I be required to pay all the costs of their health care?

A. No. Truly independent contractors are considered self-employed and will be responsible for all the costs of their own health care, i.e., both the employer and the employee portions.

Q. How will my workers' compensation costs be affected?

A. Medical treatment for workers' compensation claims will be provided through the alliances and will enjoy the alliances' cost benefits. As a result, premium rates, fraud and excessive utilization all will be dramatically reduced.

For more information

Contact: U.S. Department of Commerce, 14th and Constitution, Washington, DC 20230. Attn: Health Security Act or the U.S. Small Business Administration, 409 Third St., SW., Washington, DC 20416. Attn: Health Security Act.

Mr. DOMENICI. Madam President, the SBA was very forthright. We asked them for that information, and they gave it to us. I am not trying to get the information. I have it. I have the brochure.

I thank the Chair. I yield the floor.

Mr. SHELBY. Madam President, are we in morning business?

The PRESIDING OFFICER. That is correct.

GULF WAR SYNDROME

Mr. SHELBY. I rise today to report to the Senate a startling development concerning the health of veterans who served in the Persian Gulf theater of operations.

As chairman of the Senate Armed Services Subcommittee on Force Requirements and Personnel, I have been closely following the deteriorating condition of the health of thousands of U.S. citizens who served in the Persian Gulf conflict. I held a hearing on June 30 in the Senate during which both active duty and members of our reserve forces testified about what has come to be known as the gulf war syndrome. At that hearing, two reservists testified that they believe they were subject to some sort of chemical attack in the early days of the war with Iraq.

I followed up on this hearing with extensive talks with the Department of Defense and was briefed by officials of the Joint Chiefs of Staff and the Army on the allegations of possible chemical attack. They contended then, and continue to argue now, that our forces were not subject to any type of chemical or biological warfare during the Desert Storm and Desert Shield campaigns. They also dismissed assertions by the Czech Defense Agency that that organization detected low-level chemical radiation during the gulf war.

Madam President, however, a memorandum written by an environmental physician at the Department of Veterans Affairs Hospital in Tuskegee, AL, may refute all assertions of the Department of Defense. Yesterday, October 27, Mr. William Kay, a member of the Naval Reserve Construction Battalion 24, who has been sick since his return from the gulf, visited Dr. C. Jackson at the Tuskegee VA medical facility to receive instructions to the VA claims office for his disability claim. Dr. Jackson has seen a large number of gulf war vets in the region.

I have a copy of this memorandum. I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Department of Veterans Affairs, Oct. 27, 1993]

MEMORANDUM

From: C. Jackson, M.D., Environmental Physician, V.A. Tuskegee, Ala.

Subject: Disability Claim—Persian Gulf.

To: V.A. Claims office.

Mr. William Kay, ss# [redacted] has been followed by the V.A. Hospital in Tuskegee since his return from the Persian Gulf. He has experienced shortness of breath, excessive fatigue, diarrhea (intermittent), night sweats, memory problems and joint pains since the Gulf War. He was a member of the Construction Battalion 24 which was stationed at Al Jubayl in the Gulf. We have given him the diagnosis of Persian Gulf Syndrome and Chemical-Biological warfare exposure. He had none of these symptoms prior to the Gulf.

If we can be of further service, please notify.

C. JACKSON, M.D.

Mr. SHELBY. Madam President, I want to read from this memorandum. It states:

Mr. William Kay, ss# [redacted] has been followed by the V.A. Hospital in Tuskegee since his return from the Persian Gulf. He has experienced shortness of breath, excessive fatigue, diarrhea (intermittent), night sweats, memory problems and joint pains since the Gulf War. He was a member of the Construction Battalion 24 which was stationed at Al Jubayl in the Gulf. We have given him the diagnosis of Persian Gulf War Syndrome and Chemical-Biological warfare exposure.

I repeat, "chemical-biological warfare exposure." He had none of these symptoms prior to the Gulf.

Madam President, from the beginning I have tried to look at this entire situation as other Members of the Senate have, rationally and logically. I have met with Jesse Brown, Secretary of the Department of Veterans Affairs, and with numerous officials at the Department of Defense. I have worked with my good friend, Senator RIEGLE of Michigan, on an amendment to the Department of Defense authorization bill that would provide $5.7 million to research the gulf war syndrome. I want to continue to work with the executive branch on this vital issue.

However, the statement made in the memorandum I have just had printed in the RECORD cannot be ignored. We have a qualified medical physician making a diagnosis that a Persian Gulf veteran suffers from chemical-biological warfare exposure. I have contacted the Department of Defense and the Department of Veterans Affairs and will be meeting with them next week to receive their views on this issue. I will state now that the VA and the Department of Defense had better not reject this diagnosis out of hand. I recall similar statements concerning Agent Orange during the Vietnam era and thereafter.

Madam President, I mentioned earlier that the Czech Defense Ministry had reported the detection of chemical agents during the gulf war. It is my understanding that the Czech's have sent the Department of Defense a written report on their findings. I have been informed that, based on preliminary findings, the Department believes that there is little likelihood of a connection between the Czech readings and the gulf war illnesses because of low concentrations of readings, the locations of the agents and the prevailing winds.

I have asked the Department of Defense for a copy of this report that I will share with the Senate. They are in the process of reviewing the data and expect to make it available in the near future. Again, I take this opportunity here in the Senate this afternoon, to suggest to Secretary Aspin that the quicker the Department of Defense makes this information available the better. After the Senate recesses this year, I intend to meet with Czech officials personally in Prague and others. In the meantime, I expect a full accounting of these issues from the Department of Defense and the Department of Veterans Affairs to the Senate of the United States.

The PRESIDING OFFICER. Who yields time?

Mr. SHELBY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ETHICS COMMITTEE RELEASE

Mr. DOLE. Madam President, I have a release in my hand, a very troubling release, because it is an indication by the chairman of the Senate Ethics Committee and the release says: "The Senate Ethics Committee discovered information in Senator BOB PACKWOOD's diaries, questions about possible criminal violations," the panel chairman said today.

This all gets into the question of information diaries, what is protected, what is relevant, and it goes on to say later in the story, "BRYAN said the diaries raise questions about possible violations of criminal laws."

I know we are going to debate this on Monday. I think it is very unfortunate statement of the chairman of the committee to make. We have one of our colleagues who has been charged with certain matters before the Ethics Committee. It is under review. It is under investigation. The investigation was nearing completion. Then according to so-called committee rules they sought additional information from diaries that had no relationship to the original ethics charges.

There is a serious question whether Members of the U. S. Congress, in this case Senators, are entitled to any protection at all. Can you just rummage through anybody's files or diaries and say: "Well, this might be relevant later. If anything falls off here, it might be relevant."

That is what we hope to discuss next week. Now the chairman has already said there are questions about possible violations of criminal law.

I think that is very unfortunate. I wish such a statement had not been made. I have the highest respect for the Ethics Committee. It is a tough job. Nobody wants to be on the Ethics Committee. Nobody wants to judge their peers. But this is almost a prejudgment here. It seems to me that now the question has been raised publicly it ought to be followed up by a charge or it ought to be retracted.

It is too late to withdraw. It has already been made. This is the kind of news a lot of people like. Nail somebody, particularly a Senator. So it is too late to retract it. It should not have been made. But if it is going to stand, then there ought to be a charge. They ought to convene the committee, and they ought to say: "OK. There are additional allegations. We are going to broaden the inquiry."

If they are not going to do that, then someone ought to say, "Well, maybe I misspoke."

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

SALUTE TO THE DOLE FOUNDATION

Mr. STEVENS. Madam President, I take this opportunity to congratulate our Republican leader, BOB DOLE, on his work to improve employment opportunities for disabled Americans.

Last night an organization that BOB DOLE founded, the Dole Foundation for Employment of People With Disabilities, celebrated its 10th anniversary. In that short time, this small, nonprofit, nonpolitical organization has awarded more than 230 grants in 40 States, totaling more than $5 million.

In my home State of Alaska, a Dole Foundation grant helped Reach, Inc., of Juneau establish a silk-screening and printing business for disabled youths.

To date, Dole Foundation grants have helped thousands of disabled people across this Nation find good-paying, high-quality jobs.

BOB DOLE's foundation is making a difference, but we still have 8 million disabled Americans who are unemployed and who could work, if they were given the chance. Today, disabled Americans of working age have an unemployment rate over 62 percent.

Madam President, my father was blind. So I know a little bit about disabilities and how a helping hand—rather than a handout—can make a difference. That is the philosophy of the Dole Foundation: to give disabled Americans the opportunity to chart their own future.

I came to the floor to congratulate BOB DOLE for his leadership, not only in the Senate, but in his work to improve the lives of America's 43 million citizens with disabilities.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHILD PORNOGRAPHY

Mr. ROTH. Madam President, I rise today to add my voice to the growing protest against a Supreme Court brief filed recently by the Department of Justice in the child pornography case of Knox versus United States.

I believe this case will go down in history as the Bob Jones case of the Clinton Justice Department. My colleagues will recall the Bob Jones case. In that case the Reagan Justice Department was roundly, widely, and repeatedly criticized in the press for changing the Department's previous position that IRS denial of a tax exemption to an allegedly racially segregated school was proper. Well, in the Knox case, the Clinton Justice Department has done precisely the same kind of legal flip-flop, this time on behalf of child pornographers and pedophiles.

In September, the Justice Department filed a brief that repudiated the Government's lower court victories under the Child Protection Act of 1984. The Justice Department asked the Supreme Court to set aside a judgment upholding the conviction of a man who had already previously been convicted under the Federal child pornography laws. The Clinton Justice Department told the Supreme Court that the appeals court has used "an impermissibly broad standard" to interpret and apply the law. The Clinton administration maintained that the appeals court should be ordered to reconsider the case under a narrower standard. In a reversal of its previous interpretation of the Federal child pornography statute, the Justice Department argued that this narrower standard meant nudity or visibility of genitals is required for conviction; and that the material "must depict a child lasciviously engaging in sexual conduct," as opposed to lasciviousness on the part of the photographer or consumer.

This new definition, invented by the Justice Department out of whole cloth,

is disturbing. Many children who are exploited for child pornography are too young to understand what they are doing, much less understand what lascivious behavior or even what sex is. Furthermore, child pornographers sometimes use images of sleeping children. Under this new interpretation, such terrible exploitation of innocent young children could become legal. If the Clinton Justice Department flip-flop prevails, I hope the administration will be willing to accept responsibility—responsibility for having opened the floodgates to a new wave of child pornography and sexual exploitation of children that is likely to ensue.

Why do I call this outrageous Department of Justice action a flip-flop? Because in March 1993 the acting Solicitor General filed a brief in the Knox case arguing that the third circuit had properly upheld the convictions and that the legislative history supported that court's decision. But in September 1993 the new Solicitor General filed a brief arguing precisely the opposite. Interestingly, the second brief makes no reference to the first brief's different view and does not acknowledge the flip-flop. But I hope the Supreme Court will notice and that the Justices will not be fooled.

The key holding of the third circuit is that, under Federal law, "clothed exhibitions of the genitalia are proscribed" when "a photographer unnaturally focuses on a minor child's clothed genital area with the obvious intent to produce an image sexually arousing to pedophiles." That is exactly what the facts show happened in this case.

This is how the video tapes involved in this case were described by the Justice Department in its first brief:

> The tapes showed various females between the ages of 10 and 17 dressed in bathing suits, leotards, underwear and other similar attire. The children struck provocative poses, apparently at the direction of someone off-camera. The camera would typically zoom in on the children's pubic and genital areas and display a closeup of that area for an extended time. The tapes themselves and the promotional materials * * * showed that the tapes were designed to pander to pedophiles.

An advertising catalog for these tapes included the breathless description of—I am quoting—"bathing suits on girls as young as 15 that are so revealing it's almost like seeing them naked (some say even better)."

Mr. President, I am, like the vast majority of Americans, outraged by child pornography. I was one of the original Senate sponsors of antichild-pornography legislation with some of my efforts dating back to 1977. I took an active role in the passage of the 1984 Child Protection Act. In 1986, after a 2-year probe, which I directed, the Permanent Subcommittee on Investigations issued a report on the relationship between child pornography and the sexual abuse of children. The key findings of the investigation were that child pornography plays a central role in child molestations by pedophiles. Child pornography is used by pedophiles to justify their own conduct, to assist them in seducing their child victims, and sometimes as a means to blackmail the children they have molested in order to prevent exposure. One pedophile testified before our subcommittee that he used child pornography to overcome the resistance of his child victims and that he traded photographs of his child victims with other pedophiles. As a result of these hearings, I introduced, and the Congress passed, legislation to outlaw advertising of child pornography.

I know what Congress meant when we passed antichild-pornography legislation. We meant to stamp out the business of child pornography in this country and to stop the sexual exploitation of our children by pornographers and pedophiles. The legislation and enforcement efforts have been remarkably successful. But now the Clinton Justice Department's brief represents a major setback to these efforts.

The Justice Department brief is an outrage. I am deeply disappointed that Attorney General Reno, who has expressed such concern for the welfare of children, would allow her Department to file such a brief—a brief that will, in effect, legalize a substantial amount of child pornography in this country. Is this what the Clinton campaign meant by change? I certainly hope not.

I intend to do whatever is necessary to reverse the Department's position in this case and to ensure that the Department's arguments do not prevail.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, parliamentary inquiry, are we in morning business?

The PRESIDING OFFICER. That is correct.

Mr. BIDEN. Need I seek unanimous consent to speak in morning business for 10 minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

MORTON HALPERIN

Mr. BIDEN. Madam President, it would appear that the thaw in cold-war thinking and cold-war rhetoric has not yet reached the floor of the U.S. Senate.

I am at a loss to explain otherwise the criticism directed at the nomination of Morton H. Halperin as Assistant Secretary of Defense for Democracy and Peacekeeping.

Mort Halperin has served the national security of this country with great distinction for 30 years; he is widely and justly admired as a principled, patriotic public servant and it is hard to believe that in this instance he is serving as anything other than a target of convenience for critics who do not know, or do not wish to admit, that the cold war is over.

With the disunion of the Soviet Union and the collapse of the Communist movement, we cannot serve the national interest of the United States today if we remain mired in a slush of cold-war paranoia and resentment.

We cannot promote peace and the progress of democracy around the world if we permit the nomination of a man who has dedicated his life to those values to be held hostage to past policy differences among those for whom the national security has been a common lifelong concern.

The United States of America was conceived as a nation where citizens could differ significantly but with dignity, where differences of opinion could be aired safely within a framework of civility and where the resolution of those differences could not be subjected to ex post facto judgments.

And it is no exaggeration to say that it has been in large measure, our character as such a nation that has enabled us to survive and prevail over the Communist threat.

To depart from that tradition today, to impeach our own character as a Senate and as a nation that embodies the very values the world most admires and wishes to emulate, would pose a very real and present threat to the national security Dr. Halperin's critics profess to protect.

It would be hard to imagine a nominee better qualified than Mort Halperin to serve as Assistant Secretary of Defense for Democracy and Peacekeeping.

As head of the Washington office of the American Civil Liberties Union for a number of years and more recently as a senior associate at the Carnegie Endowment for International Peace and Baker professor at the Elliot School of International Affairs at George Washington University, he has been noted for the vigor and the effectiveness of his commitment to those values this Nation stands for.

He has been for more than 20 years a highly valued contributor to national security policy, having served in the Pentagon and the National Security Council under both Republican and Democratic administrations.

And it is a mark of both his patriotism and the professional quality of his work that his nomination has gained the bipartisan endorsement of former Secretaries of Defense and Directors of Central Intelligence who have known him well, not to mention the endorsement of Henry Kissinger, whom he sued successfully for wiretapping his phone.

Let me repeat that. Remember the celebrated case where Dr. Kissinger was sued as Secretary of State and as National Security Adviser for having ordered the wiretapping of the phone of Dr. Halperin? The very man who was sued, Dr. Kissinger, the Secretary of

State, endorses Mort Halperin for this post along with Republican and Democratic Secretarys of Defense and Directors of Central Intelligence.

Dr. Kissinger, obviously, sees Mort Halperin's nomination not as an occasion for controversy but as an opportunity to advance American national interests in the post-cold-war world.

Precisely, Mr. President as I believe the Senate should view the Halperin nomination.

The Senate does nothing to fulfill its responsibility to advise and consent on Presidential nominations, and does nothing to enhance its reputation as the world's greatest deliberative body by entertaining a long and disagreeable litany of past policy disagreements nor by entertaining anonymous and probably false allegations, such as the rumor, and Mr. President it is no better than that, that Dr. Halperin shared in overruling the military request for tanks in Somalia only recently.

Not only has Dr. Halperin denied that rumor, but Secretary Aspin has also denied it.

In fact, as the Secretary informs me by letter, an investigation of the allegation has found that Dr. Halperin not only played no role in making the decision, but was in fact not even aware that anyone had requested the tanks.

But, Madam President, as the Washington Post said in a recent editorial:

The charges against the nominee are not worth dignifying by restatement. Each fresh one crumbles under the scrutiny of the record.

Morton Halperin's record of distinguished public service and scrupulous stewardship over our national security has been unblemished for three turbulent decades. As I said of him in this Chamber last year when he joined the Carnegie Endowment and George Washington University, I would like to say again and I quote from that statement:

He is that truly rare creature, especially in Washington, perhaps, but certainly not only in Washington—he is one of those rare people for whom there is never any conflict between principle and practice. He has never sacrificed his principles and he has left the political air fresher everywhere he has passed.

That is the Mort Halperin that I know, and that I think all the Senators who have worked with him over the years know. His nomination to a vitally important post for which he is magnificently well-qualified should not be sullied in this body by an urge—an urge—to lick old wounds that should have been healed long since in the brighter light and before the increasing challenges of the post-cold war world.

Madam President, I ask unanimous consent that the Secretary's letter that I referred to be printed in the RECORD, as well as the Washington Post editorial and my remarks from last year be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, October 27, 1993.

Hon. JOSEPH BIDEN,
Russell Senate Office Building, Washington DC.

DEAR SENATOR BIDEN: Thank you for your October 27 letter concerning the alleged participation of Dr. Morton H. Halperin in decisions related to General Montgomery's request for additional support for U.S. military forces in Somalia. This is a serious allegation which must be answered fully and forthrightly.

I can tell you directly that I have had no discussions whatsoever with Dr. Halperin concerning General Montgomery's request for additional support and he sent me no memoranda or other documents related to this matter.

To answer your question about whether Dr. Halperin gave anyone else in the Pentagon advice on this matter, I asked a senior officer to interview others who had knowledge of the Montgomery request. Without exception, they all have stated that they had no discussions on this matter with Dr. Halperin. Indeed, there is no evidence that Dr. Halperin had any knowledge of the request. Accordingly, there are no documents, transcripts, or notes relating to any discussion of Dr. Halperin's involvement in this issue.

Dr. Halperin made a similar statement that he had no knowledge of the request from General Montgomery before the press reports; that accordingly he played no role and had nothing to do with this matter; and therefore there are no related documents or notes.

I hope you find this response helpful and that we can put this unfounded allegation to rest. Dr. Halperin is a very talented and patriotic American who I want to be on my team at Defense. I hope the Senate will be able to move ahead promptly with favorable consideration of his nomination.

Sincerely,

LES ASPIN.

[From the Washington Post, Oct. 11, 1993]

THE HALPERIN NOMINATION

The Attack on Morton Halperin's Pentagon nomination keeps getting nastier. From selective and distorted citations of his past statements and positions, the pack has now moved on to the recent American deaths in Somalia. A nameless source accuses Mr. Halperin, the designated assistant secretary of defense for democracy and peace-keeping, of helping overrule the military on the question of whether tanks should have been sent to American peace-keepers a month ago. No evidence is presented for this charge. Mr. Halperin says it is false. But Sen. Storm Thurmond, leader of a partisan hit squad, is pursuing the matter with thunder and bile.

From the bolts of character assassination being hurled at Mr. Halperin, you would think he is coming from deep left field. In fact, he is coming from previous posts in the Pentagon and the National Security Council in the service of both Republican and Democratic administrations. From the very beginning of a notable 30-year career, he has gained regard for his contributions to national security policy. For some years he headed up the Washington office of the ACLU. This is presumable the service for which one critic darkly said he was running an organization "dedicated * * * to ensuring that U.S. intelligence agencies operated within the framework of the Constitution." A bipartisan clutch of former secretaries of defense and directors of central intelligence, not to speak of Henry Kissinger, whom he served and then sued for wiretaps, now provide the sort of lavish character references for which the average nominee would kill.

It is idle to try to imagine what may be on the minds of Sen. Thurmond and others who are baying after Mr. Halperin. If they are stirred by anything more than a nostalgia for the good old days of witch hunting, it is well hidden. The charges against the nominee are not worth dignifying by restatement: Each fresh one crumbles under scrutiny of the record.

The post to which President Clinton has nominated Mr. Halperin is focused on the post-Cold War tasks of planning peace-keeping operations, conducting military-to-military contacts to convey democratic practices, fighting the anti-drug war and providing disaster relief. In the absence of serious and proven charges against him, the Senate Armed Services Committee has no good reason not to confirm his nomination and let him get on with the job.

[From the CONGRESSIONAL RECORD, Sept. 30, 1992]

TRIBUTE TO MORTON H. HALPERIN

Mr. BIDEN. Mr. President, at the end of this month the American Civil Liberties Union will be saying goodbye to an outstanding American with a distinguished record of service to this country's great tradition of protecting civil rights and civil liberties of all individuals. At that time, Morton H. Halperin will leave the ACLU to accept a position with the Carnegie Endowment for International Peace, as well as a position as Baker professor in the Elliot School of International Affairs at George Washington University.

I am sure that we have not seen the last of Mort Halperin here in the Congress—he will remain as dedicated and as passionate in his championing of the causes of civil rights and individual liberties in his new position as he has been in the past—but this transition makes a highly suitable time to note his tremendous contributions to those causes.

Mort Halperin has made an indelible impression on the lives of many, including myself. He is that truly rare creature—especially rare in Washington, perhaps, but certainly not only here—for whom there is never any conflict between principle and practice.

This is not because he is ever prepared to sacrifice his principles, but because he is never prepared to hold his principles aloof from the hurly-burly that so often surrounds civil rights. He is never content with principles as a pose, but only content with a principled and practical conclusion to any negotiation in which he participates.

Fortunately, for him and for us, he has a reflexive, instinctive ability to reach that kind of conclusion, time after time, to some of the knottiest controversies any of us ever encountered. And he does it without falling into the habits that too often snare those who take up civil liberties as moral trophy-hunters—

He is never content to be simply a cheerleader working the crowd from the sidelines without taking any risks himself;

He is never satisfied to simply bloody the other side with a blunt instrument without gaining any ground;

And he always wants something more than to leave the other guy guilt-ridden but still in possession of the field.

When the chips are down, what works is what Mort does—as long, of course, as what works is right. And how he gets things done is as unusual in this town as what he gets done. In a place where shouts often substitute for arguments, Mort never raises his

voice, and while it is obvious he has an absolute passion for civil liberties, when he speaks it is always with the voice of reason.

He would rather persuade you than overwhelm you—not least, of course, because he understands very well that when you have come round to his point of view, you will be mightily impressed with the originality of your own thinking, and you will defend that idea as vigorously as you would defend anything else that belongs to you.

Given his abilities and his achievements among us, I used to wonder why Mort has not become a lawyer.

But I realized, finally, that he is a bit like the famous Professor Kittridge of Harvard. When a student asked Kittridge why he had never taken a Ph.D. in his field of English literature, the professor simply smiled and said, "But who would have examined me?"

None of us, certainly, would relish trying to examine the Halperin intellect or its command of civil-rights law. But there's nothing pointy-headed about the way Mort pursues his work. There's nobody in Washington smarter than he is, but there is equally nobody more down to earth in pursuing a goal, and he has all the tools for that kind of work.

He is, very simply, a man of good judgment, about both principles and people, and he has a first-rate command of the political process that aims at blending those two elements into results that are both desirable and workable.

He knows all the angles, and he plays them all, but he plays them straight. None of us has ever known a more honest man—but neither has any of us ever known a man more clearly focused on his goals or more clever at achieving them.

For Mort is, above all, a master tactician of the moral realm, and his preeminent skill is winning the big battles, outflanking and outmaneuvering the apparently unbeatable foe at the head of small, ragtag, apparently hopeless armies—for, as we have all learned, that "apparently" can be a formidable weapon in the highly skilled hands of a Mort Halperin.

I have no doubt there are people all over this town who are still trying to figure out how they lost a fight against such "apparently" insignificant opposition.

It is simply beyond imagination that anyone could have done more than Mort for civil liberties. It has been our good fortune, as well as the great good luck of the American people, to have had Mort Halperin as our "Horatio at the Bridge" for civil liberties.

It has been our good fortune to have found in Mort Halperin the Humanitarian, but supremely practical, man once described by the writer Aldous Huxley—

"A man may have strong humanitarian and democratic principles," Huxley said, "But if he happens to have been brought up as a bath-taking, shirtchanging lover of fresh air, he will have to overcome certain physical repugnances before he can bring himself to put these principles into practice."

I have no doubt that Mort has had to wrinkle his nose more than once as he has made his way through the political stockyards here in Washington, but he never avoided the occasion, no matter how aromatic he may have found it; he never hesitated to get his hands dirty, even as he never sacrified his principles; and he has left the political air forever fresher everywhere he has passed.

He has been my friend, and he has been the best friend to civil liberties in our time.

And so, I am sure, he will remain.

Mr. BIDEN. I thank the distinguished occupant of the chair for listening. I thank her for the time. I yield the floor. I see one of my colleagues wishes to speak, so I will not suggest the absence of a quorum.

Mr. CRAIG. Madam President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MANAGEMENT OF PUBLIC LAND

Mr. CRAIG. Madam President, today we had once again a very significant vote that is being used to attempt to establish a new public policy in this country as it relates to this Government's management of public land resources and the relationship this Government has with its citizenry. I am talking about the cloture vote on the Interior Appropriations Committee conference report as relates to the funding of that agency.

Those who have watched and participated in this discussion and debate have called it the grazing fee fight. I would like for a few moments this evening to broaden that argument just beyond grazing fees to what is really a good deal more important and why I mention that it is really the discussion of, or an attempt by some, to significantly change the relationship that our Government has had in the management of public lands with the citizens of our country in primarily 14 Western States where a great deal of the lands of those States are still retained in the ownership of the Federal Government. My State of Idaho happens to be one of those.

What kind of a relationship am I talking about? Our Founding Fathers were wise in many ways, but one of the things they said very clearly was that the Federal Government ought to be limited and all other nonenumerated rights would reside with the States. And for well over a century, this body and the other one defended in a strong way that concept.

Starting in 1913, no longer were Senators appointed by State legislatures but, in fact, elected by the populace through a change in our Constitution, we began to see a significant change in the relationship that the legislative body of our Government and, therefore, our Government through the policies crafted by the legislative bodies of our Government, had with State governments. Slowly but surely we saw the Federal Government beginning to say, "State governments, you will, you shall," instead of, "You may," or instead of, more importantly, requesting from them their advice. Because up until that time, and as it relates to public land policy, whether it was the Taylor Grazing Act or whether it was NEPA of decades of separation, there still remained a belief that State governments, even though they were speaking to or about public land held by the Federal Government, had a great deal of authority in how it ought to be managed. And, therefore, out of the Taylor Grazing Act that established the BLM and gave some control to the management of the nontimbered lands of our Nation came a principle that citizens ought to participate.

One of those ways of participating was to establish what was known as advisory boards. They had only the effect of advising. They did not have the power of law, but they could advise district directors of BLM. We had for a time small groups that advised supervisors of national forests as to relationships between State and the Federal entity. All of that was part of the process.

Did it give considerable control to the States? No, not really. The laws were specific. This body controlled the public policy that governed our Federal lands. But those citizens out there who were directly affected by those policies had some say in suggesting how all of that was to come about.

But as policy changed and, as I say, through the decades of the sixties and seventies, the National Environmental Policy Act—a variety of others—we saw progressively the pulling, if you will, of that relationship that once was stronger with the States away from the States toward a central Federal Government. All of the laws of the seventies and the eighties clearly show that.

So what I believe, based on those 17½ to 18 pages of substantive law change that are embodied in the REID amendment to the Senate appropriations bill is, once again, an argument about that relationship. Should it be dictated down from the Federal Government or should there be a cooperative relationship on how States and their citizens react to and with the Federal Government on the management of these resources in large public land States. I am one of those who believes that State relationship remains very important.

That is why today and over the last several days you have seen Western Senators on this floor who represent those public land States, loudly, and sometimes with an element of anger in their voice, or at least frustration, trying to express why this legislation should not pass. You have heard time and time again, it is not the fee that we are worried about, and that is absolutely true. The fee only establishes how much it cost to have a relationship with the Federal Government over their public land. It does not define the relationship.

But what those other 17 pages or 18 pages do is define the relationship. For example, it says where there used to be tenure, and that is a term that says if you have leased the public land for grazing and you have maintained it

properly, then you have a right to renew the lease, and because that right has been ongoing now for well over 50 years, those who held the right to renew the lease could take it to their local bank and it became an economic entity. It became a part of a financial relationship. In fact, the IRS said, yes, it has value and it has value to the holder of the lease, and if you sell it or if you sell your ranch, there is value in a State taxation.

So even the IRS recognized that relationship. The Secretary of the Interior, Bruce Babbitt, said that relationship ought to be discontinued. And that, if it is to become law, if that is to become the new public policy of this country about that relationship between a citizen who held a lease and his Government or her Government on the use of the resource, it would significantly change the economics of the West. Let me give you an example.

Let us say I am a rancher and I run 500 head of cows. I own 640 acres of property, fee simple property, deeded property, but I lease this Federal ground around me to graze these cattle.

Now, today, a 500-head cow operation, as we call it out West, if you were to put it on the market and sell it, would probably be worth $750,000. Is the 640 acres deeded, fee simple property worth $750,000?

No. It is probably worth less than $100,000. But that 640 acres tied with the right to graze creates an economic unit known as a cattle ranch, and that tied together has value. That value has been established by an ongoing policy of our Federal Government since the days of the Taylor Grazing Act.

Now, if the Government or if the Senate or if the Congress or if the Secretary of Interior says no longer does tenure exist, and therefore every 3 years that right is terminated and you have to go into the open market and bid against anybody else who wishes to bid, the value of that ranch on the books for $750,000, on the books of your bank for $750,000, money owed, borrowed against the value and the cash flow performance of that economic unit that we have just called a cow ranch, all of a sudden drops precipitously to maybe less than $100,000 in land value.

That is what the debate is about here. That is part of what is embodied inside that 17 pages, and it becomes increasingly valuable for this Senate to understand that. That is part of the reason for the energy, if you will, that has gone on into the debate and the effort here.

Now, I do not know what our Secretary of Interior is attempting to do. He said that a small band of Senators was holding the entire Interior Department hostage. If you believe what I have just explained, it might be arguable that the Secretary of Interior has just threatened the well-being and the financial lives of over 40,000 permittees, ranching families, across these public lands States in which this relationship develops. But nobody has said that. Certainly the Secretary does not feel that.

While that small band of Senators is holding the Department of Interior hostage, according to Secretary Bruce Babbitt, he and a small band of his underlings have been here on the Hill the last several days lobbying to break the vote down that you saw cast in the Chamber earlier in the day.

Why? Because they do want to change the relationship between the Central Government and the States and the citizens and that public land resource.

Today, as we debated the grazing issue here on this floor, in the other body they were marking up a mining law bill that could well be, if passed, the death knell of the mining industry as we know it—once again a public land resource issue.

So it is a Western grazing issue. It is a Western mining issue.

I guess I have to ask this question in closing: Mr. Secretary, what is wrong with coming before the appropriate authorizing committees, and, if my definition of the significance of what you are proposing is real, at least allowing public hearings and allowing all of the parties affected to come in and testify as to the kind of impact these potential policy changes could have on the lives of the families that ranch or the families that mine and the communities that provide the support base and the States that will be dramatically affected if this kind of public policy is to come about? Is it politics?

Well, there is an article in "Campaigns and Elections," October and November of this year, talking about the new urban West politics and how the Democrats are working very hard to gain the urban West and to divorce it from the rural West. But the urban West moves and becomes a part of the urban West to the West because it likes the rural West. It is that unique environment of the open spaces and the rangeland and the cattle ranch and the mining property that has drawn attention and brought people to the West because they like the climate and the culture and the environment and the people that is a product of a continuation of this uniqueness we call the West.

What we do here in the course of the next several weeks could significantly change the face of the Western United States for all time to come.

I will tell you, Madam President, it is not in the name of the environment that this is done. It is in the name of changing the power structure, changing the way we have done business, changing the way public laws have directed us in the past from the Taylor Grazing Act through to the National Environmental Policy Act.

I am not going to argue at this moment whether it is right or whether it is wrong, but I do represent one of those Western States, and I find it incumbent upon myself to continue to defend as best I can that unique and important relationship that Western States have had with their Federal Government over time, and that is that we could under wise and proper public policy responsibly utilize the public land resources for the purpose of maintaining western economies, for the purpose of maintaining the general value of those resources, and supporting the overall economics and well-being of this country.

Madam President, in closing, let me say I believe that is good public policy. A central run policy muted to the importance of the input of western citizens would be a public policy very, very damaging to the West.

I yield back the remainder of my time.

The PRESIDING OFFICER. The majority leader is recognized.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Madam President, I ask unanimous consent to proceed in executive session to consider the following nominations en bloc:

Calendar No. 411: Alan Blinken to be Ambassador to Belgium;

Calendar No. 413: Toby Gati to be an Assistant Secretary of State;

Calendar No. 414: Swanee Hunt to be Ambassador to Austria;

Calendar No. 415: Thomas Loftus to be Ambassador to Norway, and

Calendar No. 420: Daniel Spiegel to be U.S. Representative to the European Office of the United Nations.

I further ask unanimous consent that during the en bloc consideration, it be in order for me to present a duly signed cloture motion on each nominee; that these cloture motions be voted on en bloc; that the cloture vote occur at 2:15 p.m. on Tuesday, November 2, 1993, with the mandatory quorum under rule XXII being waived.

I further ask unanimous consent that if cloture is invoked, there be 90 minutes, equally divided between Senators PELL and MCCONNELL or their designees; and that following the conclusion or yielding back of time, the Senate proceed to vote, without any intervening action, on the confirmation of the above-mentioned nominations ad seriatim; that the motions to reconsider be laid upon the table; that the President be notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I now send up the five cloture motions, and I ask that each be stated.

The PRESIDING OFFICER. The cloture motions having been presented under rule XXII, the Chair directs the clerk to read the motions.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 411, Alan John Blinken to be Ambassador Extraordinary and Plenipotentiary of the United States to Belgium:

Bob Kerrey, Daniel K. Akaka, Daniel Inouye, Wendell Ford, Tom Harkin, Bill Bradley, Paul Simon, Joseph Lieberman, Jay Rockefeller, Dale Bumpers, Harlan Mathews, Patrick Leahy, Christopher Dodd, John F. Kerry, Patty Murray, Claiborne Pell, Frank R. Lautenberg.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 413, Tobi Trister Gati to be an Assistant Secretary of State:

Bob Kerrey, Daniel K. Akaka, Daniel Inouye, Wendell Ford, Tom Harkin, Paul Simon, Joseph Lieberman, Jay Rockefeller, Dale Bumpers, Harlan Mathews, Patrick Leahy, Christopher Dodd, John F. Kerry, Patty Murray, Claiborne Pell, Frank R. Lautenberg.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 414, Swanee Grace Hunt to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Austria:

Bob Kerrey, Daniel K. Akaka, Daniel Inouye, Wendell Ford, Tom Harkin, Paul Simon, Joseph Lieberman, Jay Rockefeller, Harlan Mathews, Dale Bumpers, Patrick Leahy, Christopher Dodd, John F. Kerry, Patty Murray, Claiborne Pell, Frank R. Lautenberg.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 415, Thomas A. Loftus to be Ambassador Extraordinary and Plenipotentiary of the United States to Norway:

Bob Kerrey, Daniel K. Akaka, Daniel Inouye, Wendell Ford, Tom Harkin, Bill Bradley, Paul Simon, Joseph Lieberman, Jay Rockefeller, Dale Bumpers, Harlan Mathews, Pat Leahy, Christopher Dodd, John F. Kerry, Patty Murray, Claiborne Pell, Frank R. Lautenberg.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 420, Daniel L. Spiegel to be Representative of the United States to the European Office of the United Nations, with the rank of Ambassador:

Bob Kerrey, Daniel K. Akaka, Daniel Inouye, Wendell Ford, Tom Harkin, Bill Bradley, Paul Simon, Joseph Lieberman, Jay Rockefeller, Dale Bumpers, Harlan Mathews, Pat Leahy, Christopher Dodd, John F. Kerry, Patty Murray, Claiborne Pell, Frank R. Lautenberg.

LEGISLATIVE SESSION

Mr. MITCHELL. Madam President, I now ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPLANATION OF ACTION

Mr. MITCHELL. Madam President, I would like to make a comment for the information of Senators about what we have just gone through and what I believe to be a most regrettable circumstance.

On October 5, the Foreign Relations Committee unanimously approved and sent to the Senate five nominations. Three are of Ambassadors, one to Belgium, one to Austria, one to Norway; a fourth is an Assistant Secretary of State; and a fifth is the U.S. Representative to the European Office of the United Nations.

There was no opposition expressed to these nominees. The vote in the committee was unanimous, and the nominees therefore appropriately believed and expected that their nominations would receive prompt approval in the Senate. There was no reason for anyone to believe otherwise.

Accordingly, the nominees sold or rented their homes. They had their personal effects packed and ready to ship. Some of their spouses have terminated their employment. Some of them have school-age children who are to transfer to other schools and have been awaiting approval so that they can make the transfer.

But the nominees have not been approved. Here we are 3½ weeks later, and they are in limbo. Why is that?

The reason is that we have been unable to gain approval of Republican Senators to permit us to proceed to consideration of these nominees, not because of any problem with the nominees— no one has questioned the experience, the qualifications, the fitness of any of these nominees—but for what I am told is a completely unrelated matter—a dispute between a Republican Senator and the Secretary of State on a completely unrelated matter—these nominees have been held up.

The remarks I just made about homes sold or rented, personal effects packed ready to ship, spouses ending employment, school-age children anxious to transfer to schools, I am very familiar with because I know my friend and colleague, Senator DOLE, made the same comments several times in the past 2 years when nominees of a Republican President were held up and he talked about the adverse effects on these individuals.

This is not unique or limited to these people. And I emphasize that these are not nominees about whom there was any question or dispute, who in that circumstance would prudently have waited before they took these actions.

So I have been trying for the past 3 weeks to be able to proceed to get these nominees approved since there is no dispute over the nominees, and I have been unable to do so.

Several of the nominees have called me. Their spouses have called. Members of their families have called unable to understand how it can be that a nominee who has no opposition still cannot be approved.

The reason is, of course, the nominations have entered the extraordinary circumstance of having to be confirmed by the Senate under the rules of the Senate. Under the rules of the Senate, any Senator can speak for as long as he or she wants and can delay or obstruct or prevent action by the Senate. As I have said on many occasions, for most of our Nation's history, and until very recently in our Nation's history, that power known popularly as the filibuster was rarely used from 1919 for more than a half century into the 1970's—1919 having been the year at which a change was made in the rule. But for more than a half-century there was an average of fewer than one filibuster a year; fewer than one a year.

Indeed, in many Congresses over a 2-year period there were no filibusters, none. But now we have reached the extraordinary situation where in the last Congress, the 102d Congress, in that 2-year period, there were filed 48 motions to end filibusters here. That does not mean there were 48 filibusters because we have to often file more than one motion for a filibuster. But here we are in the situation now where we confront a filibuster. We have been told point blank these nominees will not be approved. There will be a filibuster. And so we have to file motions to end filibusters, delay these people for several more days, leave them in anxiety and limbo, even though, I repeat and emphasize, there has been no opposition to the nominees. Nobody ever challenged a single qualification. If that were the case, we obviously should come out here and debate them. So because we have a completely unrelated dispute, these nominees have been held up in a most unfortunate way, and it is most regrettable for them. Although I have been the principal advocate of trying to have these nominees approved on behalf of the Senate, I apologize to the nominees for what they have experienced. Many others have experienced it before. That does not make this right.

Madam President, I hope that when the Senate votes on Tuesday at 2:15, the Senators will vote to invoke cloture and to permit these nominees to

be confirmed. I am perfectly happy to have a debate on the qualifications of these nominees, to go ahead, and if someone wants to stand up and say this person is not qualified, they ought not to be in that position, we will vote on that basis. But I think it is very regrettable when these people are held up over this long period of time. I know how anxious they have been. They have been following this closely, obviously. Their careers and livelihoods are involved. I just say to them that we are going to persist, and we are now proceeding under the rules. We know there is a filibuster, and now we filed a motion to end the filibuster. We will have a vote on Tuesday, and I hope we will be able to get more than the 60 Senators necessary to end these filibusters and permit the Senate to vote on these nominations on Tuesday.

Madam President, I yield the floor.

Mr. CRAIG. Madam President, I think it is regrettable that the Senator who has had the hold on these nominations is not here this evening. He just arrived home and is on the ground and is now at the side of his mother who is in her hospital bed where she has had a very difficult and sudden illness occur. But I think it is important, and certainly the leader has represented, and appropriately and rightfully so, the circumstances that the Senator who brought the hold was within the rules of the Senate and exercised them responsibly. And that it was not extraordinary.

There is a very important issue here that I believe the Senator was in search of an answer to, as to the integrity of the files of the State Department, and how they may or may not be used appropriately or inappropriately. Certainly, the leader has just, within the rules, done what he feels he must do.

And so while it can be cast or described in any way as one would choose, I think the record shows that both entities here are within the rules of the Senate, and the rules are put here for us to use when necessary, to make what we believe to be responsible and important points, and to cause certain things to happen when it is possible to do so. But I know that if the Senator from Kentucky were here at this moment, he could speak with a good deal more detail to the issue than can I. I think it is important that the RECORD show he was clearly within the rules of the Senate and his prerogative as a Senator.

Mr. MITCHELL. Madam President, I, of course, did not assert and do not represent that anything that occurred has been outside the rules. The problem is with the rules and with the increasing absence of self-restraint by Senators to exploit the rules to the full maximum potential—a very recent development in the history of this country and of the Senate. I think it is something that creates real problems for the Senate now and will in the future.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1994, AND FOR OTHER PURPOSES

Mr. MITCHELL. Madam President, I now ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 283, the joint resolution making continuing appropriations for the Departments of the Interior and Defense; that the joint resolution be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 283) was deemed read three times and passed.

ORDER TO PROCEED TO CONSIDER S. 656

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 11 a.m., Friday, October 29, the Senate proceed to the consideration of Calendar No. 242, S. 656, the Indoor Air Quality Act of 1993; that there be a total time limitation of 30 minutes for debate on the bill and amendments thereto, with the time equally divided and controlled in the usual form; that the only amendment in order, other than the committee reported substitute, be a Brown amendment to strike subsection 5 of section 7 on page 96; that upon disposition of the Brown amendment, and the yielding back of any remaining time, the committee substitute, as amended, if amended, be agreed to, and the bill, as amended, then be advanced to third reading, and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m. on Friday, October 29; that following the prayer, the Journal of the proceedings be deemed approved to date; the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 11 a.m., with Senator HOLLINGS recognized to speak during the period allotted for morning business, and that upon disposition of S. 656, Senator MURKOWSKI be recognized for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, there will be no further rollcall votes this evening. On Monday at noon, there will be a vote on a motion to request the presence of Senators and immediately following that vote, the Senate will proceed to the consideration of the resolution recorded and filed by the Ethics Committee regarding Senator PACKWOOD. There is no time limitation on that. It is possible that votes will occur during the day on Monday after that matter is brought up.

I also want to hereby announce that I will not agree to any committee meetings on Monday. I believe that the matter before the Senate is a serious one, and that Senator PACKWOOD and the committee are entitled to have Senators present on the Senate floor to listen to the debate. Therefore, I hereby notify all committees that no committee meetings will be permitted on Monday, or during the time that the Senate is considering that matter on Monday.

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:12 a.m., a message from the House of Representatives, delivered by Mr. Dendy, an assistant to the clerk, announced that the Speaker has signed the following enrolled bill:

H.R. 2445. An act making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 2:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 283. Joint resolution making further continuing appropriations for the fiscal year 1994, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 927. An act to designate the Pittsburgh Aviary in Pittsburgh, PA, as the National Aviary in Pittsburgh.

H.R. 2492. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 2824. An act to modify the project for flood control, James River Basin, Richmond, VA.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 6:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 283. Joint resolution making further continuing appropriations for the fiscal year 1994, and for other purposes.

The joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 540. A bill to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes (Rept. No. 103–168).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1275. A bill to facilitate the establishment of community development financial institutions (Rept. No. 103–169).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 75. A joint resolution designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week".

S.J. Res. 115. A joint resolution designating November 22, 1993, as "National Military Families Recognition Day".

S.J. Res. 119. A joint resolution to designate the month of March 1994 as "Irish-American Heritage Month".

S.J. Res. 122. A joint resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month".

S.J. Res. 131. A joint resolution designating the week beginning November 14, 1993, and the week beginning November 13, 1994, each as "Geography Awareness Week".

S.J. Res. 139. A joint resolution to designate the third Sunday in November of 1993 as "National Children's Day".

S.J. Res. 142. A joint resolution designating the week beginning November 7, 1993, as "National Women Veterans Recognition Week".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Joseph Swerdzewski, of Colorado, to be General Counsel of the Federal Labor Relations Authority for a term of 5 years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Nora Margaret Manella, of California, to be U.S. attorney for the Central District of California for the term of 4 years.

Frances Cuthbert Hulin, of Illinois, to be U.S. attorney for the Central District of Illinois for the term of 4 years.

Carl Kimmel Kirkpatrick, of Tennessee, to be U.S. attorney for the Eastern District of Tennessee for the term of 4 years.

Jo Ann Harris, of New York, to be an Assistant Attorney General.

Eduardo Gonzalez, of Florida, to be Director of the U.S. Marshals Service.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH (for himself, Mr. COHEN, and Mr. GRASSLEY):

S. 1598. A bill to amend title 10, United States Code, to modernize Department of Defense acquisition procedures, and for other purposes; to the Committee on Armed Services.

By Mr. DECONCINI (for himself, Mr. D'AMATO, and Mr. HATCH):

S. 1599. A bill to establish a Missing and Exploited Children Task Force; to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself, Mr. DOLE, Mr. SIMPSON, and Mr. DURENBERGER):

S. 1600. A bill to amend the Social Security Act to establish long-term-care assistance programs for the elderly, and for other programs; to the Committee on Finance.

By Mr. BRADLEY (for himself and Mr. LEAHY):

S. 1601. A bill to amend chapter 4 of title 39, United States Code, to grant State governments the discretion to assign mailing addresses to sites within their jurisdiction; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COVERDELL (for himself and Mr. KEMPTHORNE):

S. Res. 159. A resolution expressing the sense of the Senate that the Department of Labor should provide adequate resources to the States to cover the costs of developing and implementing the worker profiling system and should provide the Governors with adequate flexibility to ensure that the funds appropriated will be made available to provide re-employment services for profiled claimants; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH (for himself, Mr. COHEN, and Mr. GRASSLEY):

S. 1598. A bill to amend title 10, United States Code, to modernize Department of Defense acquisition procedures, and for other purposes; to the Committee on Armed Services.

ACQUISITION MANAGEMENT REFORM ACT OF 1993

Mr. ROTH. Mr. President, I am gratified by this year's activities in Congress and in the administration to bring change to the Federal Government's acquisition system. This is an issue that I have been working on for over a decade and the payoff from a comprehensive reform is significant. In this Congress, the House has made progress on its Federal Acquisition Act of 1993. The Federal Acquisition Improvement Act of 1993 with President Clinton's endorsement has been introduced this week here in the Senate. The national performance review has also promised personnel reform legislation. All of these efforts attempt to fix specific problems identified in the buying system. However, there is no vision or direction as to where the buying system should be going. Mr. President, for this reason, I rise today to introduce legislation which provides a vision to stimulate and guide these reforms.

The Defense Department has become increasingly unable to produce the best technology in an affordable manner, when it's needed. While the current system is able to produce good weapons, it is wasteful, inefficient, and takes too long to field needed technologies. Mr. President, in many cases the issue of affordability is not even addressed when defining the requirements for a weapon system. As a result, many analysts have noted that much time and money is wasted trying to achieve an extra 1 percent of capability that is rarely realized. In fact, the vast majority of weapon acquisition programs are experiencing serious cost and schedule problems. For example, the C–17 transport's cost and schedule overruns have seriously delayed its availability. After spending $10.4 billion and over 20 years developing the C–17, the Air Force is considering buying commercial aircraft in its place.

In all the services, we can find such horror stories. Acquisition costs for Navy major weapon systems are over budget by as much as 179 percent, Air Force systems by as much as 158 percent, and Army systems by as much as 220 percent, even after accounting for the effects of inflation and quantity. The GAO reported that program cost increases on the order of 20 to 40 percent are common. This year's report of the Acquisition Law Streamlining Task Force, also known as the section 800 panel, noted that the Defense Department takes four times as long as the private sector to field similar high-tech items. A July 1993 Defense Science Board found that: "without fundamental reform, DOD will be unable to afford the weapons, equipment, and services it needs to provide for our national security."

Two years ago, when I introduced an earlier version of this bill, I highlighted how inefficient the Defense Department's management practices were then. Mr. President, that has not changed. A Defense Department program manager still has to follow over

840 steps in order to get a weapon system concept into production.

The Army's fiber optic guided missile is an example of the buying system's inability to perform. The program was initiated in the early seventies and by 1989, 40 prototype missiles had been successfully tested. The program was then put under DOD's standard acquisition management structure and subsequently, in 1991, canceled for cost and schedule overruns. The best estimates indicate that the system is still 10 years away from an operational capability. While the Defense Department was holding briefings and managements reviews, the rest of the world was developing this capability. The Defense Intelligence Agency reported that Japan and Europe will field a fiber-optic guided missile by 1996 and that the Third World will have those missiles before 2000. It's disconcerting that other global powers will beat us in fielding such an important weapon, or worse yet may sell it to our adversaries before we have a comparable capability.

For many years, I have worked for reform of the Government's buying system and over the years, my conclusion has not changed: without major cultural and structural reform, the Pentagon cannot make major reductions in the cost and time it takes to field a technology. In December 1992, GAO reported that: "the fundamental problem of the acquisition process is a prevailing culture that is dependent on generating and supporting new weapons acquisition." Until the buying system is changed, the results will not change. Cost and schedule overruns will continue. Mr. President, there are three root causes that must be addressed.

One, the defense acquisition process is too cumbersome, takes too long, and does not produce desired results. The buying process has become more important than producing usable weapon systems. The DOD 5000 series of documents and its consensus based management process must be abandoned in favor of a results oriented process.

Two, incentives are wrong. They reward program managers and contractors for increasing the size of their program and their budget. There is no incentive for a job well done. Managers who do not spend their budget are subject to more ridicule that those who overspend their budgets.

Three, the organization is too large. It is a bureaucracy with layer upon layer of management and dozens of buying commands and subcommands spread across the four military services. Many of the bureaucratic layers exist solely to satisfy the needs of the bureaucracy. They provide no value added toward weapon system development. The current organization mistakes the continuation of the program in favor of meeting customer needs. When the Packard Commission recommended streamlining this bureaucracy to three layers and a handful of commands, the military departments added the three-tier structure to their old organization structures. As a result, the American taxpayer is now paying for two bureaucracies in each of the military departments.

Mr. President, my proposal contains six parts to reform DOD acquisition management and the relationship between Government and industry. It incorporates the principles of unity of command, lean management structure, fast processes, and pay for performance for both Government workers and contractors.

First, the bill establishes performance goals. On average, programs must be within 90 percent their cost and schedule goals. In addition, the bill requires DOD to reduce by 50 percent the time it takes to field emerging technologies. It also requires the Joint Chiefs of Staff to approve the cost and schedule goals for programs to ensure weapons reach the field when they are needed.

Second, my legislation would require the Secretary of Defense to streamline the acquisition process. Program managers will be given the authority and accountability for achieving results. My proposal also requires a commitment of full funding for each phase of the development cycle which will remove the major source of program instability.

Third, my proposal streamlines, the defense acquisition organization and its interface with operational users. The bill reorganizes the Defense Department research, development, and acquisition bureaucracies into a single DOD-wide agency. Authority for executing programs would be returned to the program manager. Program executives would be organized according to mission areas, such as Strategic Lift, to ensure responsiveness to those who use the weapons on the battlefield. Additionally, those who use weapons will regain responsibility for determining what is bought.

Fourth, the bill re-emphasizes the commitment of Congress to a professional acquisition work force and establishes the incentive structure toward program performance. My proposal will allow acquisition managers to be promoted based on the performance of the programs that they manage.

Fifth, the legislation creates an efficient contracting process. My proposal will change the culture of contracting to take advantage of time and money-saving ideas, while preserving competition and protecting the interests of the American taxpayer. The bill includes the requirement that the contracting officials support the program managers and the overall agency wide acquisition goals while maintaining the integrity of the contracting officer. The bill is consistent with the Federal Acquisition Streamlining Act of 1993, which raises the small purchase threshold to $100,000 and supports other section 800 panel recommendations.

Sixth, the Defense Department will be able to manage its contractors on the basis of performance, rather than to rely on continuous audit and the threat of penalties. In my concept of performance-based contract administration, contractors would act ethically and efficiently because it would be in their financial interest to do so. Under the concept that I am proposing, contractor profit would be tied to achievement of quantifiable performance measures. Hence, contractors would be awarded for good performance and penalized for cost growth.

Mr. President, large savings can be realized from the comprehensive reforms I am proposing. I anticipate that my approach will reduce acquisition management personnel by as much as 25 to 30 percent through reductions in duplicative headquarters staffs. CBO and the Pentagon Comptroller's Office estimated that $4.2 to $4.5 billion could be saved from this organizational streamlining. Defense systems management college professors believe that if DOD could reduce the time of the contracting process by 1 year, a savings of approximately $6 billion would result. Still, the largest dollar gains would come from comprehensive reform. The Defense Science Board Task Force on Defense Acquisition Reform in July 1993 reported that a comprehensive reform along the lines I am proposing would save $20 billion per year.

In summary, there is both a need and an opportunity for reforming Defense acquisition. Multibillion-dollar cost overruns; programs that are years or even a decade behind schedule; incentives that encourage spending rather than savings; and top-heavy bureaucratic agencies that replace good judgment with detailed regulations are the features of the current DOD buying system that must be changed. But, Mr. President, I must point out that bureaucracies are inherently unable to reform themselves. The time has come for us to make some very hard and difficult decisions which have far-reaching impact on the future of our country. Change must be brought about by those of us who are concerned about maintaining a strong defense within today's budget constraints.

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 1599. A bill to establish a Missing and Exploited Children Task Force; to the Committee on the Judiciary.

THE MISSING AND EXPLOITED CHILDREN TASK FORCE ACT OF 1993

• Mr. DECONCINI. Mr. President, on September 30, 1993, around 10:30 at night, 12-year-old Polly Klaas and two

of her girlfriends had just settled down for a late night card game at a spur-of-the-moment Friday night slumber party. Not more than an hour later, Polly's mother was awakened by one of the girls who stood by her bedside, wide-eyed and terrified, and related a story of how a man, armed with a knife, had broken into the Petaluma, CA, home, forced the girls to lie on the bed, covered their heads with pillowcases, tied their wrists behind their backs, and then fled the house with Polly.

Only a month before, on the other side of the country in a small town in New York, another 12-year-old girl disappeared while biking the mile-long trip between her home and the church where her father is pastor. Police found Sara Anne Wood's pink-and-white mountain bike abandoned in a nearby ditch, along with some papers she had been carrying.

Polly Klaas and Sara Anne Wood are just two of the thousands of children abducted each year by nonfamily members. Neither of the girls was more than a mile away from their small-town homes when the abductions occurred, and, in both instances, their small communities mobilized immediately to assist local law enforcement in the investigations. Merchants from both areas immediately donated space and resources including phones, fax machines, copy machines, and supplies, while townspeople from all over took vacation time to donate endless hours stuffing envelopes, making phone calls, posting signs, and knocking on doors. In spite of these efforts, helpful leads in both cases have been few and far between, and resources and manpower are slowly diminishing.

Mr. President, the victimization of children in our Nation has reached epidemic and terrifying proportions. The most recent Department of Justice figures show that, in one year, 4,600 children were abducted by nonfamily members, two-thirds of these nonfamily abductions involved sexual assault, more than 354,000 children were abducted by family members, and over 450,000 children ran away. It is painfully clear that the time has come to increase and unite our efforts to solve and prevent such savage crimes against our children.

It is for that reason that I rise today with my distinguished colleague, Senator D'AMATO, to introduce a bill that will assist in the resolution of such crimes against our Nation's children and, ultimately, aid in the prevention of future and repeated crimes. The Missing and Exploited Children Task Force Act of 1993 would create a team of active Federal agents who would work with the National Center for Missing and Exploited Children [NCMEC] in assisting State and local law enforcement agents in their most difficult missing and exploited child cases.

The task force would be headed by a representative from the Federal Bureau of Investigation and would be comprised of two representatives from each of the following Federal agencies: the Federal Bureau of Investigation, the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the U.S. Customs Service, the Postal Inspection Service, the U.S. Marshals Service, and the Drug Enforcement Administration.

Each participating agency would nominate agents who possess some area of specialized expertise, including behavioral sciences, crimes against children, sex offenses, forensics, international investigative experience, and other areas that would be of particular value, to investigations of this nature. Each member would serve a 1-year term, with an option to extend for a year, and would be compensated by their respective agencies. Most importantly, task force members would retain full authority, be on active duty status, and retain access to appropriate databases.

Coordinating and pooling the resources and expertise of several Federal law enforcement agencies to tackle a compelling problem has been successful in the past. One example is the Organized Crime Drug Enforcement Task Force [OCDETF] program, established in 1983. The OCDETF program consists of a nationwide structure of 13 regional task forces which utilize the combined resources and expertise of its member Federal agencies in cooperation with State and local investigators and prosecutors to target and destroy major narcotic trafficking and money laundering organizations. Since its implementation, the program has experienced immense success.

Last year, Senator D'AMATO and I worked to secure funding for a program entitled "Project Alert," which enlists retired law enforcement officials to volunteer their expertise to State and local police officers for some of their toughest missing children cases. Project Alert volunteers are certified through the NCMEC and have already proven to be extremely valuable in assisting active law officers in evaluating leads, investigating longstanding, unsolved cases, promoting community awareness and prevention programs, and using the latest in scientific technology to help track the swelling ranks of missing children. Members of the Missing and Exploited Children Task Force would have similar responsibilities.

Task force members would use their expertise, data access, and official authority to work on cases chosen and updated by NCMEC as their most difficult cases. Members would also be available to go on location to assist local or State investigators, but only after a full prior consultation with the lead investigator on the case, local, State, or Federal.

While local and State law enforcement agencies are to be commended for their efforts in such cases, missing children investigations would benefit highly from a coordinated Federal law enforcement effort. By supplementing our Nation's 17,000 police departments—a majority of which have 10 or fewer officers—with task force members and resources, we can unite our Nation's best in the fight against such reprehensible crimes and increase the chances of our Nation's missing children being returned to their homes and families.

I urge my colleagues to join me in support of this legislation. I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1599

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Missing and Exploited Children Task Force Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the victimization of children in our Nation has reached epidemic proportions; recent Department of Justice figures show that—

(A) 4,600 children were abducted by nonfamily members;

(B) two-thirds of the abductions of children by non-family members involve sexual assault;

(C) more than 354,000 children were abducted by family members; and

(D) 451,000 children ran away;

(2) while some local law enforcement officials have been successful in the investigation and resolution of such crimes, most local agencies lack the personnel and resources necessary to give this problem the full attention it requires;

(3) a majority of the Nation's 17,000 police departments have 10 or fewer officers; and

(4) locating missing children requires a coordinated law enforcement effort; supplementing local law enforcement agencies with a team of assigned active Federal agents will allow Federal agents to pool their resources and expertise in order to assist local agents in the investigation of the Nation's most difficult cases involving missing children.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a task force comprised of law enforcement officers from pertinent Federal agencies to work with the National Center for Missing and Exploited Children (referred to as the "Center") and coordinate the provision of Federal law enforcement resources to assist State and local authorities in investigating the most difficult cases of missing and exploited children.

SEC. 4. ESTABLISHMENT OF TASK FORCE.

Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) is amended—

(1) by redesignating sections 407 and 408 as sections 408 and 409, respectively; and

(2) by inserting after section 406 the following new section:

"TASK FORCE

"SEC. 407. (a) ESTABLISHMENT.—There is established a Missing and Exploited Children's Task Force (referred to as the "Task Force").

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Task Force shall include at least 2 members from each of—

"(A) the Federal Bureau of Investigation;

"(B) the Secret Service;

"(C) the Bureau of Alcohol, Tobacco and Firearms;

"(D) the United States Customs Service;

"(E) the Postal Inspection Service;

"(F) the United States Marshals Service; and

"(G) the Drug Enforcement Administration.

"(2) CHIEF.—A representative of the Federal Bureau of Investigation (in addition to the members of the Task Force selected under paragraph (1)(A)) shall act as chief of the Task Force.

"(3) SELECTION.—(A) The Director of the Federal Bureau of Investigation shall select the chief of the Task Force.

"(B) The heads of the agencies described in paragraph (1) shall submit to the chief of the Task Force a list of at least 5 prospective Task Force members, and the chief shall select 2, or such greater number as may be agreeable to an agency head, as Task Force members.

"(4) PROFESSIONAL QUALIFICATIONS.—The members of the Task Force shall be law enforcement personnel selected for their expertise that would enable them to assist in the investigation of cases of missing and exploited children.

"(5) STATUS.—A member of the Task Force shall remain an employee of his or her respective agency for all purposes (including the purpose of performance review), and his or her service on the Task Force shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis.

"(6) PERIOD OF SERVICE.—(A) Subject to subparagraph (B), a member shall serve on the Task Force for a period of 1 year, and may be selected to a renewal of service for 1 additional year.

"(B) The chief of the Task Force may at any time request the head of an agency described in paragraph (1) to submit a list of 5 prospective Task Force members to replace a member of the Task Force, for the purpose of maintaining a Task Force membership that will be able to meet the demands of its caseload.

"(c) SUPPORT.—

"(1) IN GENERAL.—The Administrator of the General Services Administration, in coordination with the heads of the agencies described in subsection (b)(1), shall provide the Task Force office space and administrative and support services, such office space to be in close proximity to the office of the Center, so as to enable the Task Force to coordinate its activities with that of the Center on a day-to-day basis.

"(2) LEGAL GUIDANCE.—The Attorney General shall assign a United States Attorney to provide legal guidance, as needed, to members of the Task Force.

"(d) PURPOSE.—

"(1) IN GENERAL.—(A) The purpose of the Task Force shall be to make available the combined resources and expertise of the agencies described in paragraph (1) to assist State and local governments in the most difficult missing and exploited child cases nationwide, as identified by the chief of the Task Force from time to time, in consultation with the Center, and as many additional cases as resources permit, including the provision of assistance to State and local investigators on location in the field.

"(B) TECHNICAL ASSISTANCE.—The role of the Task Force in any investigation shall be to provide advice and technical assistance and to make available the resources of the agencies described in subsection (b)(1); the Task Force shall not take a leadership role in any such investigation.

"(e) TRAINING.—Members of the Task Force shall receive a course of training, provided by the Center, in matters relating to cases of missing and exploited children.

"(f) CROSS-DESIGNATION OF TASK FORCE MEMBERS.—The Attorney General shall cross-designate the members of the Task Force with jurisdiction to enforce Federal law related to child abduction to the extent necessary to accomplish the purposes of this section.".●

By Mr. PACKWOOD (for himself, Mr. DOLE, Mr. SIMPSON, and Mr. DURENBERGER):

S. 1600. A bill to amend the Social Security Act to establish long-term-care assistance programs for the elderly, and for other programs; to the Committee on Finance.

SECURE CHOICE ACT OF 1993

Mr. PACKWOOD. Mr. President, elderly Americans are this country's fastest growing age group. The elderly population in the United States has doubled over the past 30 years, swelling from 16 million in 1960 to 32 million last year. By the year 2030, there will be more than 66 million people over 65. And the number of people age 85 and older is expected to triple.

As the elderly population skyrockets, and the need for long-term-care grows, our society will face tough decisions about how to make long-term-care more affordable.

I have worked with the Republican leader, Senator DOLE, for almost 2 years to revise our long-term-care bill introduced in the 102d Congress. That is why I am proud to introduce today legislation called Secure Choice—a comprehensive three-part legislative plan which tackles the explosive demand for affordable long-term-care services. This bill confronts the challenge of providing long-term-care services to our Nation's senior citizens and individuals who become disabled. I am committed to this legislation, and to finding adequate financing for its implementation.

Several objectives guided the development of this legislation. All have been achieved. First, the legislation provides services to our neediest individuals. Second, it builds on a public-private partnership that will make long-term-care more affordable. Third, tax barriers hindering the development of the private long-term-care insurance market are removed. Fourth, the legislation encourages the kind of long-term-care services Americans want—care provided in the home and in the community. Finally, the legislation is fiscally responsible in today's world of limited resources.

Secure Choice recognizes that not everyone's needs are the same. That's why we have structured the legislation to provide Americans with choices so they get the long-term-care services they need and prefer. Some may be able to stay at home with the assistance of a homemaker aide. Others may want the services provided in an assisted living facility. Still others may need more intensive services provided in nursing homes.

Secure Choice also recognizes that individual financial capacities' differ. That is why we structured the legislation to provide a public program for the most needy; a public-private partnership for people with moderate incomes, to help them purchase qualified long-term-care insurance policies; and tax clarifications for individuals and businesses wishing to purchase private long-term-care insurance.

Secure Choice recognizes that resources are limited and calls on all sectors of American society to help meet the challenge of providing long-term-care. This free market approach is the most responsible way to expand the availability of long-term-care services.

NEW PROGRAM FOR LOW-INCOME INDIVIDUALS

Many elderly Oregonians have told me they want to stay in their homes, but need help taking care of themselves. Secure Choice is designed to help them to do just that.

The bill provides nursing home care and expanded home and community-based care to individuals with incomes below the Federal poverty level—$6,970 in 1993—through a new title of the Social Security Act. long-term-care services now provided through Medicaid would be moved to this new title XXI. Eligibility would be broadened and simplified, and the need for Medicaid waivers would be eliminated. This means States could provide more home care services without the hassles associated with obtaining a waiver.

States would be required to cover eligible individuals with income up to 100 percent of the Federal poverty level. Like the medically needy option under Medicaid, individuals with incomes above the poverty level could count out-of-pocket expenses for long-term-care against their income to qualify.

BUILDING ON A PUBLIC-PRIVATE PARTNERSHIP

Secure Choice creates a public-private partnership to help Americans with moderate incomes—less than 3 times the Federal poverty level, about $21,000—purchase long-term-care insurance. One of the barriers to the development of a large private insurance market is the high cost of insurance premiums. Secure Choice helps make policies more affordable because the Federal and State governments will join together to pay part of the cost of long-term-care services when they are needed through a benefit subsidy.

Policies must offer case management, nursing home services and an

array of home and community-based services. Policies must offer benefit coverage equal to $60,000—approximately the cost of 2 years in a nursing home. This coverage could be used for any combination of nursing home, home-based, or community-based services.

I asked the actuarial firm, William M. Mercer, Inc., to estimate premiums for qualified policies under Secure Choice. They have reviewed my legislation and calculated that unsubsidized premiums for qualified policies would be comparable to premiums for long-term-care policies available on the market today. Furthermore, Mercer estimates that the benefit subsidy makes Secure Choice premiums more affordable for individuals with low or moderate income. For example, the Secure Choice premium for an individual at age 65 could be as low as $286 per year. That is approximately $23.83 per month for a state-of-the-art policy.

TAX CLARIFICATION

Finally, Secure Choice clears up the uncertainty about the tax treatment of long-term-care expenses and insurance by clarifying that long-term-care expenses and qualified long-term-care insurance are treated the same as medical expenses and medical insurance under the tax law. Under our bill:

First, out-of-pocket long-term-care expenses and the cost of qualified long-term-care insurance will be tax deductible—above 7.5 percent of adjusted gross income;

Second, payments for insured long-term-care services under qualified long-term-care insurance policies will not be taxable;

Third, employer-paid long-term-care services and qualified long-term-care insurance would be a tax-free employee fringe benefit; and

Fourth, insurance company reserves set aside to pay benefits under qualified long-term-care insurance policies would be tax deductible.

Mr. President, I believe Secure Choice is a sensible approach to solving this Nation's long-term-care needs. The legislation helps protect consumers by guaranteeing policy renewability and portability, and by requiring policies to meet certain consumer protection standards developed by the National Association of Insurance Commissioners.

Mr. President, my home State of Oregon has been on the cutting edge of finding innovative ways to provide long-term-care in the home and in the community. Secure Choice builds on the knowledge and expertise developed in my State. Many organizations in my State helped me pull together the ideas in the bill. These organizations include the Oregon Department of Human Resources [DHR], especially the Oregon Senior and Disabled Services [OSDS] Division of DHR; the Governor's Task Force on long-term-care and the Governor's Commission on Senior Services.

Mr. President, many other national organizations have worked with me to refine and improve the bill. These organizations include: the National Association of Insurance Commissioners; the National Association of Home Care; the American Health Care Association; the American Association of Homes for the Aging; the National Governors Association; the American Public Welfare Association; and representatives of insurance companies.

I would also like to thank the staff of the Congressional Research Service, the Congressional Budget Office, and the Senate Legislative Counsel for their hours of assistance in making this bill a reality.

Secure Choice reflects a collective effort. I have listened to affected organizations, the States, insurance companies, and individuals. I believe Senator DOLE and I have crafted a bill that responds to real needs in a responsible way.

Mr. DOLE. Mr. President, over the next several months, Congress will likely make historical decisions regarding health care in the United States. However, these effort will be incomplete unless the long-term-care needs of America's seniors and individuals who become disabled are adequately addressed. This, perhaps, will be the greatest challenge of health care reform.

All across America, millions of elderly and disabled men and women ask what type of long-term-care is available to them, and if they are able to afford it. Middle-aged and younger adults have also shared their concerns on this issue—will their parents get the high quality care they deserve—will a system be in place which will care for them as they grow older?

Mr. President, it used to be that when we talked about long-term-care, we really were referring to nursing home care. Today, that is no longer the case. long-term-care consists of a wide range of services, which include nursing home care, but also home care, personal care, and community-based care, such as adult day care.

For over 2 years, Senators PACKWOOD, SIMPSON, DURENBERGER, and I have worked together to craft comprehensive legislation, Secure Choice, which addresses the concerns we hear so often. We believe this bill is a responsible, three-step approach to the long-term-care issue.

The first step, Mr. President, involves providing a wider range of long-term-care services, such as home and community-based services, than are currently available to low income elderly and disabled Americans under Medicaid.

Part two of our legislation recognizes that the only responsible solution to long-term-care is one that calls upon the initiative of private enterprise, as well as Government. Through Government subsidies, Secure Choice would create a public/private partnership which would encourage lower income persons to purchase long-term-care insurance. This will put long-term-care insurance within the financial reach of a greater number of Americans.

The third part of Secure Choice, Mr. President, is a clarification of the Tax Code, which encourages individuals to buy long-term-care insurance, and which provides incentives for business to provide such insurance to their employees. Through this legislation, all long-term-care expenses would be treated the same as medical expenses. In addition, consumer protection standards are defined.

Mr. President, we strongly believe that this free market approach is the most responsible way to provide long-term-care services to America's seniors and disabled citizens.

long-term-care is a national problem, requiring a national solution. And Secure Choice calls on all sectors of American society—Federal and State government, private employers, insurance companies, and families and individuals to join together in ensuring that our seniors, and those with disabilities, can live with dignity.

Mr. President, we have a duty to assist those who have given so much to our country. Secure Choice fulfills that duty by offering a comprehensive approach that will result in security for Americans facing the prospect of long-term-care.

During the coming months, as we, in Congress, continue to debate health care reform, we must keep in mind that there is no true reform without long-term-care reform.

We certainly realize that Secure Choice is not the only solution that has been offered. There are others out there. But, one thing on which we can all agree is that we must do something. We simply cannot wring our hands and wish the problem away.

I am committed to this legislation, and to finding adequate financing for its implementation.

Mr. President, I ask unanimous consent to submit for the RECORD a copy of a summary of our bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY

Individuals and their families are fundamentally responsible for planning and providing for their own future long-term-care needs. Government should limit its role to providing assistance to individuals who have low income and assets either because of their economic situation or because of catastrophic long-term-care expenses. However, efforts must also be made to make long-term-care both more accessible and more affordable. This bill establishes a three-pronged approach to accomplish these goals.

A. SECURE CHOICE PROGRAM

First, the bill establishes a new Title (XXI) of the Social Security Act for long-term-care

services for functionally impaired, low-income individuals. long-term-care services now provided to these individuals through the Medicaid program would be moved to Title XXI. However, the link to cash welfare assistance would be served, and eligibility would be broadened and simplified.

Under Title XXI, states would be required to cover persons who:

1. need substantial human assistance in performing a specified number of Activities of Daily Living (ADLs);

2. have income below 100 percent of the Federal poverty level (FPL); and,

3. have assets no greater than $2,000 (if they are in a nursing facility— or $5,000 (if they are receiving home and community-based care).

States would also have to cover individuals with income above 100 percent of the FPL and who contribute enough of their income toward the cost of their care (the "medically needy" program under existing Medicaid law).

Similar to Medicaid current law, states would be required to cover nursing facility services and a mix of home and community-based services. However, a waiver would not be required to provide home and community-based services. States could also cover other services (e.g., respiratory therapy) at their option.

B. SECURE CHOICE INSURANCE PARTNERSHIP

Part of Title XXI would require states to participate in a public-private partnership to assist individuals with income below 300 percent of the FPL purchase private long-term-care insurance. Under this program States must subsidize individuals with income below 300 percent of the FPL who purchase a qualified long-term-care insurance policy.

Individuals who are able to purchase private long-term-care insurance would be encouraged to purchase a "qualified" policy. The state and Federal governments would subsidize benefits under qualified policies, depending on the individual's income. The government subsidy would make qualified insurance policies more affordable for individuals with income between below 300 percent of the FPL. Qualified policies would also guarantee, for all who purchase them, enhanced asset protection above that permitted under Title XXI.

Qualified policies would provide coverage for nursing facility services and a mix of home and community-based services. Services would be limited to those appropriate to meet the person's ADL-related needs as determined by a qualified case manager.

C. TAX CLARIFICATION

Finally, this bill clarifies that all long-term-care services (medical care and personal care) are treated as medical expenses under the tax law. This means that:

1. long-term-care expenses and insurance premiums would be tax deductible (above 7.5 percent of AGI);

2. Payments under long-term-care insurance policies would not be taxable when received; and,

3. Employer-paid long-term-care insurance would be a tax-free employee fringe benefit.

The bill also clarifies that insurance companies can deduct their reserves set aside to pay benefits under long-term-care policies.

Finally, the bill specifies consumer protection standards for long-term-care insurance policies. Policies that do not meet these standards would be denied the favorable tax treatment described above.

By Mr. BRADLEY (for himself and Mr. LEAHY):

S. 1601. A bill to amend chapter 4 of title 39, United States Code, to grant State governments the discretion to assign mailing addresses to sites within their jurisdiction; to the Committee on Governmental Affairs.

STATE ADDRESS DESIGNATION ACT

Mr. BRADLEY. Mr. President, I rise today to introduce with Mr. LEAHY the State Address Designation Act, which would permit States to establish consistent mailing addresses for municipalities. Identical legislation has been introduced in the House by Congressman SAXTON. This legislation will improve emergency services in many small townships in my State and around the country.

Under current law, the Postal Service has taken responsibility for determining mailing addresses. The postal address, which is based on postal delivery routes and the location of nearby post officer, is often vague and confusing. It may have nothing to do with the community in which an individual or family actually lives. This creates many problems for communities, particularly those in rural areas. In particular, it has delayed the implementation of 911 emergency services in those areas.

There have already been cases where emergency personnel were delayed in arriving on the scene of a serious accident because an insufficient home address—a postal address—was the only address available to the rescue squad. For example, a constituent of mine in Southhampton Township, NJ, who was badly burned in an accident did not receive prompt medical attention because emergency personnel had trouble finding the man's home. The postal address was insufficient for the rescue squad to rapidly respond to the call for help. Some communities have been unable to complete the implementation of a 911 system until they can address the problem of potentially incorrect addresses.

The current system sacrifices community identity for the sake of the bureaucratic efficiency of ZIP Codes. In areas where a small town is served by another town's post office, the name of the larger municipality may serve as the smaller town's town name on its mailing address. Many municipalities in New Jersey suffer from this identity crisis. An example, Mr. President, is Little Egg Harbor Township, which is losing its identity because the entire township has a mailing address of Tuckerton—simply because they are served by a post office in Tuckerton Borough. The South Jersey community of Westhampton is served by five larger neighboring towns; imagine, a town of 6,000 has five different town names for mail delivery purposes. Confusion abounds. Residents of Springfield in Burlington County, NJ, think of themselves as living in Springfield, but for post office purposes, they live in Jobstown, or Juliustown, or Mount Holly, or Pemberton, or Wrightstown, or Columbus, or Burlington, or Bordentown. But not Springfield.

Every home should have a single address. That address should serve the Postal Service, emergency services, the census, and the purpose of local identity. There should be nothing controversial about this idea. The Postal Service has an important mandate, which is to deliver mail to every home at the lowest cost, but local emergency services also have an important mandate, as does the Census Bureau. There must be one authority that designates a municipal address, and it could be the municipality itself, or it could be the State. In this bill, it is the State.

This legislation is similar to a bill that Congressman SAXTON and I have introduced in past Congresses, but the previous bill would have allowed municipalities to designate their own boundaries. This bill requires the Postal Service to acknowledge municipal boundaries designated and recognized by the State. This would address concerns expressed by the Postal Service that any cluster of homes might declare itself a municipality and force the Postal Service to adjust its sorting equipment. More importantly, it responds to the situation in New Jersey, where a State pilot project establishing a single address for every home in Burlington County has been thwarted by the Postal Service's insistence on conducting long and costly surveys of customer preference before acknowledging that the township of Springfield is, in fact, the township of Springfield.

Mr. President, some have argued that this legislation would wreak havoc with the Nation's post offices. I disagree. This legislation does not require the establishment of separate post offices or changes in mail delivery routes. It would not require any zip codes to change or post offices to relocate. It simply puts the authority to designate town addresses in the hands of a single political unit—the State. I would like to thank Senator LEAHY, whose State has experienced many of the same problems, for joining me in introducing this legislation, and I urge my colleagues, including those whose constituents may not yet have encountered the problems that postal addressing can cause, to give consideration to this small but important piece of legislation.

ADDITIONAL COSPONSORS

S. 455

At the request of Mr. HATFIELD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 455, a bill to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 732

At the request of Mr. KENNEDY, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 732, a bill to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

S. 973

At the request of Mr. DORGAN, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 973, a bill to require the Federal Communications Commission to evaluate and publicly report on the violence contained in television programs, and for other purposes.

S. 1087

At the request of Mr. KOHL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1087, a bill to amend title 18, United States Code, to prohibit the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile.

S. 1118

At the request of Mr. HATFIELD, the names of the Senator from Washington [Mr. GORTON] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1118, a bill to establish an additional National Education Goal relating to parental participation in both the formal and informal education of their children, and for other purposes.

S. 1256

At the request of Mr. DOLE, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1256, a bill to amend the Foreign Assistance Act of 1961 to examine the status of the human rights of people with disabilities worldwide.

S. 1329

At the request of Mr. D'AMATO, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Wyoming [Mr. WALLOP], the Senator from New York [Mr. MOYNIHAN], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 1329, a bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

S. 1333

At the request of Mr. KENNEDY, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1333, a bill to improve the admissions process at airports and other ports of entry and to strengthen criminal sanctions for alien smuggling investigatory authority of the Immigration and Naturalization Service.

S. 1350

At the request of Mr. INOUYE, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1350, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1356

At the request of Mr. HATCH, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1356, a bill to restore order, deter crime, and make our neighborhoods and communities safer and more secure places in which to live and work.

S. 1408

At the request of Mr. LOTT, the names of the Senator from Mississippi [Mr. COCHRAN], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1408, a bill to repeal the increase in tax on Social Security benefits.

S. 1439

At the request of Mr. LIEBERMAN, the names of the Senator from California [Mrs. FEINSTEIN], and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 1439, a bill to provide for the application of certain employment protection laws to the Congress, and for other purposes.

S. 1447

At the request of Mr. BRYAN, the names of the Senator from Missouri [Mr. DANFORTH], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1447, a bill to modify the disclosures required in radio advertisements for consumer leases, loans and savings accounts.

S. 1469

At the request of Mr. DORGAN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1469, a bill to require air carriers to provide 90 days' notice to the Secretary of Transportation, the appropriate State agencies, and affected communities prior to the termination, suspension, or significant reduction of air service.

S. 1500

At the request of Mr. LIEBERMAN, the names of the Senator from California [Mrs. BOXER], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1500, a bill to amend the Job Training Partnership Act to establish a program to assist discharged members of the Armed Forces in obtaining training and employment as managers and employees with public housing authorities and management companies.

S. 1522

At the request of Mrs. FEINSTEIN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1522, a bill to direct the United States Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for hate crimes.

S. 1589

At the request of Mrs. BOXER, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 1589, a bill to amend title 18, United States Code, to prohibit any State motor vehicle department from disclosing certain personal information about a person doing business with such department.

SENATE JOINT RESOLUTION 52

At the request of Mr. PACKWOOD, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution to designate the month of November 1993 and 1994 as "National Hospice Month."

SENATE CONCURRENT RESOLUTION 20

At the request of Mr. LIEBERMAN, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of Senate Concurrent Resolution 20, a concurrent resolution relative to Taiwan's Membership in the United Nations.

AMENDMENT NO. 1089

At the request of Mr. NICKLES the names of the Senator from Texas [Mrs. HUTCHISON], the Senator from Mississippi [Mr. LOTT], the Senator from Florida [Mr. MACK], the Senator from Indiana [Mr. COATS], the Senator from Georgia [Mr. COVERDELL], the Senator from Utah [Mr. HATCH], the Senator from Montana [Mr. BURNS], the Senator from Arizona [Mr. MCCAIN], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Amendment No. 1089 proposed to H.R. 3167, a bill to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

SENATE RESOLUTION 159—RELATIVE TO THE DEPARTMENT OF LABOR

Mr. COVERDELL (for himself, Mr. KEMPTHORNE, Mrs. HUTCHISON, and Mr. NICKLES) submitted the following resolution; which was considered and agreed to:

S. RES. 159

Whereas Federal regulation of State and local governments has become increasingly extensive and intrusive in recent years;

Whereas such regulation has, in many instances, adversely affected the ability of State and local governments to achieve their independent responsibilities and meet their established priorities;

Whereas such regulation has forced State and local governments to use existing revenue sources or generate new property tax revenues to enable them to adhere to Federal mandates;

Whereas the resulting excessive fiscal burdens on State and local governments also undermine the ability of State and local governments to attain the goals of Federal regulations;

Whereas over 1,000 mayors through the United States Conference of Mayors recognized October 27, 1993, as National Unfunded Federal Mandates Day to call the attention of Congress to the fiscal emergency facing local governments as a result of the onslaught of Federal unfunded mandates;

Whereas support was given to the National Unfunded Federal Mandates Day by the National Association of Counties, the International City and County Management Association, the National Governors' Association, the National Conference of State Legislatures, and the Council of State Governments;

Whereas the report of The National Performance Review, issued September 7, 1993, states that "the President should issue a directive limiting the use of unfunded mandates by the Administration," and recommends that "Congress refrain from this practice"; and

Whereas the States must have adequate resources to implement effectively any new requirements placed on them by Federal laws and regulations: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Department of Labor should provide adequate resources to the States to cover the costs of developing and implementing the worker profiling system and should provide the Governors with adequate flexibility to ensure that the funds appropriated will be made available to provide reemployment services for profiled claimants.

AMENDMENTS SUBMITTED

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

GRAMM (AND OTHERS) AMENDMENT NO. 1090

Mr. GRAMM (for himself, Mr. GRASSLEY, Mr. MCCAIN, and Mrs. HUTCHISON) proposed an amendment to the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes; as follows:

On page 10, line 16, strike "1994".''; and insert in lieu thereof the following: "1994".

SEC. . REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(A) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS OF FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,095,182 during fiscal year 1994;
(2) 2,044,100 during fiscal year 1995;
(3) 2,003,846 during fiscal year 1996;
(4) 1,963,593 during fiscal year 1997;
(5) 1,923,339 during fiscal year 1998; and
(6) 1,883,086 during fiscal year 1999.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

PENSION ANNUITANTS PROTECTION ACT OF 1993

METZENBAUM (AND KASSEBAUM) AMENDMENT NO. 1091

Mr. MITCHELL (for Mr. METZENBAUM, for himself and Mrs. KASSEBAUM) proposed an amendment to the bill (S. 1312) to amend the Employee Retirement Income Security Act of 1974 in order to provide for the availability of remedies for certain former pension plan participants and beneficiaries; as follows:

On page 2, line 1, before the word "semicolon" and "'or" after the".
On page 2, line 7, delete "(A)".
On page 2, line 19, after "vided" add "or to be provided".
On page 3, lines 8–9, delete "other than the relief authorized in section 2 of this Act".

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will be holding an oversight hearing on Thursday, October 28, 1993, beginning at 9:30 a.m. in 485 Russell Senate Office Building on Public Law 101–630, the Indian Child Protection and Family Violence Prevention Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place Wednesday, November 3, 1993, at 9:30 a.m. in room 366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony from Martha Krebs, nominee to be Director of the Department of Energy's Office of Energy Research.

For further information, please contact Rebecca Murphy at (202) 224–7562.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 6:30 p.m. on Wednesday, October 27, 1993, in closed session, to discuss matters relating to the conference on H.R. 2401, the National Defense Authorization Act for fiscal year 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, October 28, 1993, at 12 p.m. in closed session, to discuss the shipbuilding initiative related to conference with the House on H.R. 2401, the National Defense Authorization Act for fiscal year 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Thursday, October 28, 1993, at 10 a.m. to mark up S. 783, the Consumer Reporting Reform Act of 1993; and S. 1405, the National Flood Insurance Reform Act of 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on October 28, 1993, at 10 a.m. on the nomination of Jane M. Wales of Virginia, Robert T. Watson of California, and M.R.C. Greenwood of California to be Associate Directors of the Office of Science and Technology Policy [OSTP].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., October 28, 1993, to receive testimony on nuclear safety assistance to Russia and Eastern Europe.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., October 28, 1993, to receive testimony concerning the administration's national action plan to reduce greenhouse gases.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to hear testimony from Secretary of Health and Human Services Donna Shalala on the administration's health care proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, October 28, 1993, at 10 a.m. to hold a nomination hearing on John Holum, to be Director of the U.S. Arms Control and Disarmament Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENT AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent on behalf of the Government Affairs Committee for authority to meet for markup on Thursday, October 28, on the nomination of: Joseph Swerdzewski, to be General Counsel, Federal Labor Relations Authority.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Indian Affair be authorized to meet on Thursday, October 28, 1993, beginning at 9:30 a.m., in 485 Russell Senate Office Building on Public Law 101–630, the Indian Child Protection and Family Violence Prevention Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, October 28, 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, October 28, 1993, at 9:30 a.m., to hold a hearing on the nomination of Michael F. DiMario, of Maryland, to be Public Printer. This confirmation hearing will be followed by a hearing on Senate Joint Resolution 143 and Senate Joint Resolution 144, providing for the appointments of Frank Anderson Shrontz and Manuel Luis Ibanez, respectively, as citizen regents of the Smithsonian Institution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on pending legislation, followed immediately by a hearing on the nominations of Eugene A. Brickhouse to be Assistant Secretary for Human Resources and Administration, and Kathy Elena Jurado to be Assistant Secretary for Public and Intergovernmental Affairs. The markup and the hearing will be held in room 418 of the Russell Senate Office Building at 2 p.m. on Thursday, October 28, 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 28, 1993, at 3 p.m. to hold an open hearing on NAFTA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism, Committee on Labor and Human Resources, be authorized to meet for a hearing on "Witness to Domestic Violence: Protecting Our Kids," October 28, 10 a.m.

In addition, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on "S. 1115: Implications of the Fair Labor Standards Act for Inmates, Correctional Institutions, Private Industry and Labor," October 28, 2:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR AND NUCLEAR REGULATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air and Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, October 28, beginning at 10 a.m., to conduct a markup of S. 1162, a bill to authorize the Nuclear Regulatory Commission [NRC] for fiscal years 1994 and 1995, and S. 1165 and S. 1166, bills concerning the NRC's legislative authority.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science and Transportation be authorized to meet on October 28, 1993, at 10:30 a.m. on NASA's relevance to the economy.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, October 28, 1993, to hold a hearing on abuses in Federal student grant programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMUNITY COMES TOGETHER TO FIND LOST GIRLS

• Ms. MIKULSKI. Mr. President, I rise today to recognize an incredible outpouring of support and community spirit in my State's Garrett and Allegany Counties. Late Monday afternoon, October 18, two young girls, 8 and 9 years old, wandered away from a children's home in eastern Garrett County. These young girls wandered into the nearby woods and became lost. The reason I rise today is to tell a good story, a story with a happy ending, where members of the community came together and gave of themselves to find these two lost girls.

Upon realization of the lost girls, members of the Maryland State Police and Maryland Rangers immediately began a search covering a massive geographic area. This search went all through the night, and by the time it had concluded, scores of local agencies and citizens were involved. Search parties were formed. Local business people closed their shops to help. The massive search included: the Maryland Department of Resources Police from the Billmeyer Work Center, Rangers from New Germany State Park, Deep Creek Lake State Park, Savage River State Forest, Potomac Garrett State Forest and Herrington Manor State Forest, the Maryland State Police including members of the McHenry Barracks, the Cumberland Barracks, the K9–1 Unit from Jessup, and the Aviation Division in Cumberland, the Mt. Nebo Forestry Service, the Cumberland Forestry service, the Western Maryland Crime Search Team, the Northern Garrett County Rescue Squad, the Frostburg Ambulance Service, volunteers from local fire companies including Grantsville, Eastern Garrett/Finzel,

Accident, Bittinger, Swanton, Deer Park, Oakland, Lonaconing, Frostburg, Clarysville, and Corrigansville. Even the local Grantsville Subway Shop got involved by sending doughnuts and subs to feed the volunters.

Mr. President, thanks to the tireless efforts of a community bound together, determined to help, the young girls were found in the woods unharmed the next afternoon. I honor and commend the people of Garrett and Allegany Counties for their commitment to their fellow citizens, and their commitment to the lives of two young Marylanders with much more to give to this world.

Particular thanks goes to Rangers John Frank, Rick Lewis, and Joe Stevens, DNR Public Communications Officer Gary Yoder, State Police Maj. W. Raymond Presley and Lt. Charles Hinnant, Troopers Rodeheaver and Tindal, and the Medivac Helicopter Team. These Marylanders went above and beyond the call of duty to help their fellow citizens.●

REMARKS BY ENERGY SECRETARY O'LEARY

● Mr. JOHNSTON. Mr. President, on October 25 the Associated Press carried a report from London on remarks by Energy Secretary Hazel O'Leary during her attendance at an annual conference on oil and money.

That wire service account unfortunately generated a great deal of confusion and concern with regard to the administration's policy toward domestic oil and gas production. Subsequently I discussed this matter with Secretary O'Leary and am satisfied that her remarks were, indeed, misrepresented.

I am reassured by the statement of clarification issued by the Secretary on October 26. I ask that her statement be reprinted in the RECORD and commend it to the attention of my colleagues.

The statement follows:

[From DOE News, Oct. 26, 1993]

The following is a response from Secretary of Energy Hazel R. O'Leary to an October 26 Associated Press wire service news story by Dirk Beveridge:

"This statement will clarify this Department's and Administration's policy toward the domestic energy industry. As one of the Secretaries of Energy with an extensive knowledge of and background in domestic gas and oil matters, I clearly recognize that independent producers are responsible for the production of more than 60 percent of the gas in this country and more than 37 percent of its oil. Natural gas is a critical element in the President's energy strategy, and independents are a major source for new supplies, comprising more than 80 percent of all new oil and gas discoveries in the United States. Since taking office in January of this year, the Department has launched several initiatives aimed at creating markets for the domestic industry.

I have also proposed to dramatically increase the Department's research and development efforts for gas and oil to levels far in excess of any other Administration in order to make gas and oil exploration and production more economic. The domestic natural gas and oil industry is a high tech, high wage business that we will attempt to encourage in order to take full advantage of our domestic resources and of export markets for exploration and production technology and equipment.

"Next month, the Administration will release its domestic natural gas and oil initiative. I launched this initiative before the Louisiana State Legislature in April and stated the urgency to create a climate which would encourage increased domestic exploration and production. Most importantly, I have stated many times previously, and did so again yesterday, that it is this Secretary's obligation to educate the American public of the critical importance of this industry to the Nation's economic and national security. We have learned many times that the Congress and the public will not support policies which benefit producers and the Nation until they believe it is in the Nation's interest to do so. In partnership with the industry, it is my job to educate the American public of the vital importance of this industry so as to implement beneficial policies.

I have met with many of my colleagues from the independent community several times since taking office to discuss ideas which will benefit the industry and the public, most recently in Oklahoma two weeks ago. I look forward to continuing this dialogue with my colleagues in the independent community to develop policies which create an economic climate that allows these business leaders the opportunity to make rational investment decisions which will increase product and jobs."●

NOMINATION OF JANET NAPOLITANO

● Mr. LOTT. Mr. President, the nomination of Janet Napolitano to be U.S. attorney from Arizona fundamentally challenges the Senate to consider carefully our constitutional responsibilities. Article II, section 2 gives to the Senate the duty of advice and consent to nominations which may be made by the President. To make a judgment on any nominee requires that the Senate know that the person be of high moral character and competence. To make a decision without all of the pertinent information available would be to shirk our constitutional responsibility.

In the nomination of Janet Napolitano, we are faced with a situation which does not allow us to answer all of the questions, and to determine absolutely that there is no problem in her background. She has asserted attorney-client privilege in the matter of her representation of Anita Hill. This claim is subject to question on technical grounds. The memorandum which follows ought to be read by every Senator before any action is taken on this nomination. It details why the assertion made by Ms. Napolitano is questionable.

It also reviews the responsibility of the Senate to require information on which to judge a candidate before advice and consent are given to appointive office. During the consideration of the nominations of Chief Justice Rehnquist and Justice Scalia in 1986, a claim of executive privilege withholding information on the nominees' tenure in the executive branch was exerted by the White House. In that case an agreement was made to give the Judiciary Committee the information that they needed. The Senate made the point that the duty of advice and consent was more important than the claim of executive privilege. Senator KENNEDY noted that the information was needed to fulfill Senate responsibilities. He said the agreement was "a very substantial victory for the Constitution and the constitutional process." I hope we are able to realize a similar victory for the Constitution in this case.

I ask that the following memorandum be included in the RECORD at this point.

The memorandum follows:

MEMORANDUM

In response to questions about her conduct during an October 11, 1991 interview of Judge Susan Hoerchner by lawyers for the Senate Judiciary Committee, Janet Napolitano has invoked on behalf of Judge Hoerchner the so-called "pooled information" or "joint defense" extension of the attorney-client privilege. Ms. Napolitano thus seeks confirmation as United States Attorney for the District of Arizona—the highest ranking federal law enforcement official in the State—despite significant unresolved charges that she suborned false or misleading testimony before the Committee. Neither law nor reason compels the Senate to accept this claim of privilege, and thus abdicate its advice and consent responsibilities, without further investigation.

I. THE ATTORNEY-CLIENT PRIVILEGE DOES NOT APPLY TO CONFIRMATION HEARINGS FOR A PROSPECTIVE UNITED STATES ATTORNEY

A. Congress may reject claims of attorney-client privilege at its discretion

"Attorney-client privilege can not be claimed as a matter of right before a congressional committee." Memorandum Opinion of General Counsel to the Clerk of the House of Representatives on Attorney-Client Privilege (Dec. 11, 1985), *reprinted* in 132 Cong. Rec. H674 (daily ed. Feb. 27, 1986) [hereinafter General Counsel Memorandum]. Older than the Republic itself, this rule finds support in the text of the Constitution; in literally hundreds of years of settled precedent, both legislative and judicial; and in a 1986 memorandum prepared for Congress by Professor Stephen Gillers, who now contends that the Judiciary Committee must accept the claim of attorney-client privilege asserted by Ms. Napolitano.

The Constitution provides explicitly that "Each House may determine the rules of its Proceedings." U.S. Const. Art. I, §5, cl. 2. This grant of authority is qualified by certain constitutional privileges, such as the right against Self-Incrimination. The attorney-client privilege, however, is not secured by the Constitution, but is developed by the judiciary through the common law method. *See, e.g.*, Fed. R. Evid. 501 (federal privilege rules are "governed by the principles of the common law as they may be interpreted by the courts of the United States in the light of reason and experience"); *Upjohn Co. v.*

United States, 449 U.S. 383, 389 (1981) (attorney-client is a common-law privilege); J. Weinstein & M. Berger, *Weinstein's Evidence* ¶ 503[02], at 503-19 (1993) (same). As the Congressional Research Service has explained, to extend such a common-law privilege to congressional investigations "would, in effect, permit the judiciary to determine congressional procedures and is therefore difficult to reconcile with the constitutional authority granted each House of Congress to determine its own rules." Memorandum From Congressional Research Service to Clerk of the House of Representatives (Feb. 19, 1986), *reprinted in* 132 Cong. Rec. H681 (daily ed. Feb. 27, 1986) [hereinafter CRS Memorandum].

At common law, the courts were bound by the attorney-client privilege, but the Parliament was not. As one distinguished English treatise explains: "A witness is . . . bound to answer all questions which the committee sees fit to put to him, and cannot excuse himself, for example, . . . because the matter was a privileged communication to him, as where a solicitor is called upon to disclose the secrets of his client . . . some of which would be sufficient grounds of excuse in a court of law." E. May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament* 746-47 (20th ed. 1983). The historical practice in England thus confirms the plain meaning of the Rules of Proceedings Clause: that "Each House" of Congress—not the judiciary—has plenary authority to "determine the rules of its Proceedings."

Professor Gillers himself has endorsed this traditional understanding in prior congressional testimony. In addressing the question "Does the [attorney-client] privilege apply in Congress?," Professor Gillers explained:

"Congress is obligated to observe constitutional privileges, such as the privilege against self-incrimination. It is not obligated to honor subconstitutional privileges created by statute or common law. While it has been suggested that in criminal prosecutions the attorney-client privilege may to some extent be of constitutional dimension, this is not a criminal prosecution. . . .

"Congress has the power to defeat assertion of a statutory or common law privilege even though the privilege would be recognized in court." Memorandum From Stephen Gillers to Rep. Stephen Solarz (Feb. 19, 1986), *reprinted in*, 132 Cong. Rec. H679 (daily ed. Feb. 27, 1986).

The Congress has enacted no rules or statutes recognizing the attorney-client privilege in congressional hearings. As the Subcommittee on Asian and Pacific Affairs on the House Committee on Foreign Relations has explained, "[n]o statute, House rule, or [Committee] rule changes the English rule that attorney-client privilege does not have to be accepted in legislative proceedings; Congress has never decided to impose that restriction on its proceedings." H.R. Rep. No. 462, 99th Cong., 1st Sess. (1985), *reprinted in*, 132 Cong. Rec. H666, at H670 (daily ed. Feb. 27, 1986). "Consistently, Congressional committees have felt enabled to reject the applicability of claims of attorney-client privilege." General Counsel Memorandum, *supra*, at H675. This willingness has been apparent throughout American history.

In the late 19th Century, the House conducted an investigation into financing practices of the Union Pacific Railroad. During hearings, Joseph B. Stewart, counsel for Union Pacific, declined to answer certain questions on the ground of attorney-client privilege. "Unimpressed, the House locked him up" for contempt. T. Taylor, *Grand Inquest: The Story of Congressional Investigations* 45 (1955). The Supreme Court for the District of Columbia upheld the sanction, notwithstanding Stewart's assertion of the privilege. *See Stewart* v. *Blaine*, 8 D.C. (1 MacArth.) 453 (D.C. 1874).

In 1934, the Senate conducted an investigation into the contracting practices of the Postmaster General. During hearings, attorney William P. MacCracken, Jr. resisted a subpoena to produce certain documents on the ground of attorney-client privilege. The Senate ordered MacCraken to produce the documents notwithstanding his assertion of the privilege. *See Jurney* v. *MacCracken*, 294 U.S. 125, 146 (1935). In ensuring litigation, MacCraken abandoned his contention that the privilege applied to congressional hearings, and the Supreme Court noted in passing that the Senate "had authority to require the production of papers as a necessary incident of the power of legislation." *Id.* at 144.

In 1954, both the Senate and the House explicitly rejected proposals to incorporate the attorney-client privilege in their respective Rules. *See* S. Rep. No. 2, 84th Cong., 1st Sess. 27-28 (1954); H.R. Res. 178, 84th Cong., 1st Sess. (1954).

In the late 1970s and early 1980s, the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce repeatedly rejected claims of attorney-client privilege. *See* Attorney-Client Privilege: Memoranda Opinions of the American Law Division, Library of Congress, Committee Print 98-I (98th Cong. June 1983); Hearings on the International Uranium Cartel Before the Subcomm. on Oversight and Investigation of the House Comm. on Interstate and Foreign Commerce, 95th Cong., 1st Sess. Vol. 1 (1977). Committee and Subcommittee Chairman John Dingell explained.

"[T]here is ample support for the view that the availability of the attorney-client privilege is a matter of discretion with the Subcommittee based on analogous judicial authority, coupled with the full investigative prerogatives of Congressional committees acting within their jurisdiction for a valid legislative purpose, the custom, practice and precedents of both Houses of the Congress and the British Parliament, and the consistent practice of the Subcommittee * * *."

In 1986, the Subcommittee on Asian and Pacific Affairs of the House Committee on Foreign Relations conducted an investigation into the real estate holdings of deposed Philippine President Ferdinand Marcos. The Subcommittee rejected claims of attorney-client privilege in part on the "independent" ground that Congress is not bound by the privilege. *See* H.R. Rep. No. 462, *supra*, 132 Cong. Rec. at H669. The Subcommittee noted that *Congress* makes the privilege determinations applicable to legislative proceedings (except for constitutional privileges), and warned that the wholesale application of judicially recognized common-law privileges "would bring key congressional inquires to a halt" Id. at H670.

No judicial decision has questioned Congress's authority to determine the constitutional privilege rules applicable to its own proceedings. On the contrary, the Supreme Court has recognized that "only infrequently have witnesses appearing before congressional committees been afforded the procedural rights normally associated with an adjudicative proceeding." *Hannah* v. *Larche*, 363 U.S. 420, 445 (1960). *See also United States v. Fort*, 443 F.2d 670, 678-82 (D.C. Cir. 1970), *cert. denied*, 403 U.S. 932 (1971). Indeed, the only judicial decision squarely on point upheld the power of Congress to disregard the attorney-client privilege in its own hearings. *See Stewart v. Blaine*, 8 D.C. (1 MacArth.) 453 (D.C. 1874); CRS Memorandum, *supra*, at H681 ("[N]o court has ever questioned the assertion of the prerogative. . . ."). States v. Fort, 443 F.2d 670, 678-82 (D.C. Cir. 1970), *cert. denied*, 403 U.S. 932 (1971). Indeed, the only judicial decision squarely on point upheld the power of Congress to disregard the attorney-client privilege in its own hearings. *See Stewart v. Blaine*, 8 D.C. (1 MacArth.) 453 (D.C. 1874); CRS Memorandum, *supra*, at H681 ("[N]o court has ever questioned the assertion of the prerogative. . . .").

Finally, rejection of the attorney-client privilege in this context reflects sound policy judgments. On the one hand, "the necessity to protect the individual interest in the adversary process is far less compelling in an investigative setting where a legislative committee is not empowered to adjudicate the liberty or property interests of a witness." *Id.* at H682. On the other hand, "complete, untempered importation of the privileges and procedures of the judicial forum is likely to have a paralyzing effect on the investigatory process of the legislature." *Id.*; *see also* H.R. Rep. No. 462, *supra*, 132 Cong. Rec. at H670 (similar).

Neither Ms. Napolitano nor her advocates cite any contrary authority, congressional or judicial. Remarkably, Ms. Napolitano does not even acknowledge, much less attempt to overcome, the grave difficulties of her assertion of attorney-client privilege in the context of a *congressional* proceeding. Instead, she cites decisions governing application of the privilege in *judicial* proceedings and then analyzes her privilege claim as if those decisions were controlling. *See* Answers of Janet Napolitano to Questions Submitted by Senators Simpson and Thurmond, at 1 (Sept. 23, 1993) [hereinafter Napolitano Answers]. At best, her response indicates rather cavalier legal preparation for someone who would become a United States Attorney. The privilege analyses of Professors Hazard and Gillers, which likewise fail to address this issue entirely, are similarly deficient.

For all of these reasons, the Senate is not obligated to accept Ms. Napolitano's claim of attorney-client privilege even if a court, under similar circumstances, would.

B. The Senate should reject claims of attorney-client privilege asserted in the context of confirmation hearings for a prospective United States attorney.

Although congressional committees have discretion to entertain individual claims of attorney-client privilege, the Congress generally has been reluctant to do so, as the above discussion suggests. "[W]here in the particular circumstances an investigation determines that the legislative need for the information outweighs the arguments against production, such production has been required." H.R. Rep. No. 462, *supra*, 132 Cong. Rec. at H669. This is clearly such a case.

The Constitution requires the Senate to provide "Advice and Consent" to appointments by the President of "Officers of the United States." U.S. Const. Art. II, §2, cl. 2. In this context, the "legislative need for the information" is unusually strong. In the *Stewart*, *MacCracken* and Marcos cases, for example, Congress compelled testimony pursuant to its investigations of railroad financing, government contracting, and the acquisition of real estate by foreign potentates—even though the attorney-client privilege

would have protected that same testimony from compelled disclosure in court. The Constitution authorizes, but does not compel, Congress to act in each of these areas. Faced with difficulties in gathering information, Congress might decide to leave problems in these areas for resolution in executive, administrative, judicial, or private fora. The advice-and-consent context is different, however. Only the Senate can perform that function, and it obviously needs all relevant information about a nominee to do so properly.

The importance of the office to which Ms. Napolitano has been nominated only heightens the Senate's need to complete and accurate information about her background and professional integrity:

"The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. . . . He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."

Berger v. *United States*, 295 U.S. 78, 88 (1935). As Attorney General (later Justice) Jackson explained, a prosecutor must maintain "a detached and impartial view" of all citizens, lest "the real crime" become "that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself." R. Jackson, The Federal Prosecutor, Address Delivered at the Second Annual Conference of United States Attorneys (April 1, 1940). In order to fulfill its advice and consent responsibilities, the Senate must have unimpeded access to all information bearing on whether a prospective United States Attorney will refrain from the "improper methods" condemned in *Berger*, or the partiality decried by Justice Jackson. Evidence that a nominee encouraged false or misleading testimony while in private practice is obviously and highly relevant to this inquiry.

The interests of the witness and the attorney are relatively narrow in the context of confirmation proceedings in general, and this confirmation proceeding in particular. As the Congressional Research Service has explained, "the necessity to protect the individual interest in the adversary process is far less compelling in an investigative setting where a legislative committee is not empowered to adjudicate the liberty or property interests of a witness." CRS Memorandum, *supra*, at H682. The issue here is not whether Ms. Napolitano (or Judge Hoerchner) should be civilly or criminally liable for any wrongdoing that they might have undertaken, but only whether Ms. Napolitano should be confirmed as a United States Attorney. The congressional hearings in this case clearly do not portend any criminal investigation or civil enforcement proceeding—a special context in which Congress has, on occasion, permitted claims of attorney-client privilege. *Compare* N.Y. Times, July 10, 1987, at A8, col. 4 (noting assertion of attorney-client privilege in congressional hearings by Brendon Sullivan on behalf of Oliver North).

In sum, because the Senate's need for all relevant information about Ms. Napolitano's background (if she wishes to proceed with her nomination) clearly outweighs Ms. Napolitano's and Judge Hoerchner's interests against production, the Senate should require Ms. Napolitano to answer its questions notwithstanding her misplaced assertion of attorney-client privilege on behalf of Judge Hoerchner.

II. THE "POOLED INFORMATION" PRIVILEGE ASSERTED BY MS. NAPOLITANO WOULD NOT APPLY EVEN UNDER THE STANDARDS THAT GOVERN JUDICIAL PROCEEDINGS

Ms. Napolitano has asserted that her communications to Judge Hoerchner during the October 11, 1991 Judiciary Committee interview are protected against disclosure by the so-called "pooled information" or "joint defense" extension of the attorney-client privilege. The attorney-client privilege itself is clearly inapposite, because Ms. Napolitano makes no contention that she has ever represented Judge Hoerchner. *See* Napolitano Answers, *supra*, at 2. For several reasons, however, the "pooled information" privilege would not protect Ms. Napolitano against compelled disclosure even assuming (contrary to law) that the standards applicable to judicial proceedings also govern confirmation proceedings.

A. Testimonial privileges must be narrowly construed

Testimonial privileges "contravene the fundamental principle that '"the public has a right to every man's evidence."'" *Trammel v. United States*, 445 U.S. 40, 50 (1980) (citation omitted). Therefore, "they must be strictly construed and accepted 'only to the very limited extent that permitting a refusal to testify or excluding relevant evidence has a public good transcending the normally predominant principle of utilizing all rational means for ascertaining truth.'" *Id.* (citation omitted).

Addressing the attorney-client privilege specifically, the Supreme Court has repeatedly instructed that "'since the privilege has the effect of withholding relevant information from the factfinder, it applies only where necessary to achieve its purpose.'" *United States v. Zolin*, 491 U.S.C. 554, 562 (1989), quoting *Fisher v. United States*, 425 U.S. 391, 403 (1976). As Judge Becker has explained, "[b]ecause the attorney-client privilege obstructs the truth-finding process, it is construed narrowly." *Westinghouse v. Republic of the Philippines*, 951 F.2d 1414, 1423 (3d Cir. 1991). *See also* M. Larkin, *Federal Testimonial Privileges*, §2.01, at 2-4 (1993) ("Since the privilege is generally in derogation of the broad duty of witnesses to disclose the information in their possession, the privilege should ordinarily be confined within the *narrowest possible limits* consistent with its purpose." (emphasis added)). And if the attorney-client privilege itself must be narrowly construed, then, clearly, so too must be the "pooled information" extension of that privilege.

Ms. Napolitano, however, asserts a "pooled information" privilege that is unprecedently broad in three critical respects. Any one of these is enough to defeat her claim of privilege.

B. The "pooled information" privilege requires concerted action not present here

The "pooled information" privilege does not cover any communication between a client and the lawyer of another. Rather, it protects only those communications that are "part of an on-going and joint effort to set up a common defense strategy." *Eisenberg v. Gagnon*, 766 F.2d 770, 787 (3d Cir.), *cert. denied sub nom. Weinstein v. Eisenberg*, 474 U.S. 946 (1985). In *Matter of Bevill, Bresler & Schulman Asset Management Corp.*, 805 F.2d 120 (3d Cir. 1986), the Third Circuit specified the elements of the "pooled information" or "joint defense" privilege:

"In order to establish the existence of a joint defense privilege, the party asserting the privilege must show that (1) the communications were made in the course of a joint defense effort, (2) the statements were designed to further the effort, and (3) the privilege has not been waived."

Id. at 126. *Bevill* thus squarely places the burden of proof on the party invoking the privilege (consistent with privilege law generally), and its three requirements subsume a subsidiary fourth requirement—"that the parties had agreed to pursue a joint defense strategy." *Id.*

Bevill has been widely adopted by the Courts of Appeals. In *United States v. Bay State Ambulance & Hospital Rental Service*, 874 F.2d 20, 28-29 (1st Cir. 1989), the First Circuit quoted *Bevill* verbatim and then rejected a claimed joint defense privilege because its proponent had failed to prove that the relevant communication "was prepared as part of a joint defense." In *United States v. Schwimmer*, 892 F.2d 237, 243 (2d Cir. 1989), the Second Circuit, citing *Bevill*, defined the privilege as applicable "where a joint defense effort or strategy has been decided upon and undertaken by the parties and their respective counsel."

In this case, Ms. Napolitano has not established the necessary agreements among the respective attorneys and clients. There was clearly no agreement between the counsel for Professor Hill and Ron Allen, who served as counsel for Judge Hoerchner. Ms. Napolitano was asked: "Was there any agreement among such counsel?" She responded without qualification: "There was no written agreement among counsel"—a response more charitably read as asserting the absence of any agreement among counsel, written or oral, then as attempting to mislead the Committee (by only partial responsiveness) about the existence of an oral agreement. *See* Napolitano Answers, *supra*, at 3. Moreover, Ms. Napolitano has not alleged that the relevant *clients*, Professor Hill and Judge Hoerchner, agreed upon a "joint defense effort or strategy." Instead, she described Judge Hoerchner only as one of three "corroborating witnesses Professor Hill invited to testify in support of her position." *Id.* That description, however, falls far short of alleging, much less proving, that Professor Hill and Judge Hoerchner had agreed to coordinate their testimony and strategy during the confirmation hearings of Justice Thomas. Finally, even assuming the existence of some agreements between Ms. Napolitano and Mr. Allen, and between Professor Hill and Judge Hoerchner, Ms. Napolitano has not alleged that her communications to Judge Hoerchner during the October 11, 1991 interview were "designed to further" the joint effort.

Professor Geoffrey Hazard speculates that although the transcript of the October 11, 1991 interview "does not indicate one way the other, * * * it may have been that the Attorneys Allen and Napolitano nodded or otherwise silently communicated with each other before Ms. Napolitano spoke." Letter From Professor Geoffrey Hazard to Senator Dennis DeConcini, at 6 (Sept. 28, 1993) [hereinafter Hazard Letter]. That freewheeling speculation, to the extent it is offered to satisfy the *Bevill* elements, is plainly inadequate. The law requires the proponent of the privilege to "show" that the predicate elements do obtain, not to guess how they might.

C. The "pooled information" privilege does not apply outside the context of pending of imminent litigation

Rather than construing the "pooled information" or "joint defense" privilege narrowly, as settled law requires, Ms. Napolitano seeks to establish an unprecedented extension of that privilege outside the context of actual or imminent litigation. She makes no attempt to justify this extension, however—another example of her rather cavalier invocation of the privilege.

A memorandum prepared for Senator Biden, which endorses Ms. Napolitano's invocation of the privilege, identifies in support of the necessary extension exactly three sentences from a single district court opinion decided over 17 years ago, *SMC Corp. v. Xerox Corp.*, 70 F.R.D. 508 (D. Conn.), *appeal dismissed and mandamus denied*, 534 F.2d 1031 (2d Cir. 1976). But *SMC* involved a joint defense privilege asserted *after* litigation had in fact begun, and the Biden Memorandum properly identifies the relevant language from the case as dicta. *See* Memorandum to Senator Biden From Nominations Staff Re. Nomination of Janet Napolitano To Be the U.S. Attorney For the District of Arizona, at 4 (Sept. 28, 1993) [hereinafter Biden Memorandum].

Ms. Napolitano and the Biden Memorandum cite various secondary sources. But to the limited extent that they address the question whether the "pooled information" privilege applies outside the context of actual or imminent litigation, a majority of those sources undercut the position asserted by Ms. Napolitano. *Compare* Revised Uniform Rules of Evidence Rule 502(b)(3) (1974) (privilege applies to a communication by a client "to a lawyer or a representative of a lawyer representing another party *in a pending action* and concerning a matter of common interest therein" (emphasis added)) *and* 2 J. Weinstein, *Weinstein's Evidence* §503(b) [06], at 503–99 (1993) ("'No American case has allowed a [pooled information] privilege . . . in a situation totally unrelated to litigation.'" (citation omitted)) *with* Restatement of the Law Governing Lawyers §126 reporter's note, at 194 (Tentative Draft No. 2) (1989) (proposing to extend privilege beyond the litigation context) [hereinafter Restatement].

The memoranda prepared by Professor Hazard and Professor Gillers, which support Ms. Napolitano's invocation of the privilege, do not even address this issue.

D. No privilege applies because statements by Ms. Napolitano will not reveal privileged communications made by Judge Hoerchner

As classically formulated, the attorney-client privilege extends only to communications from the client to the attorney. *See, e.g., United States v. United Shoe Machinery Corp.*, 89 F. Supp. 357, 358–59 (D. Mass. 1950) (Wyzanski, J.); 8 J. Wigmore, *Evidence* §2292 (McNaughton rev. 1961); *see also* Biden Memorandum, *supra*, at 2. Therefore, communications from the attorney to the client are shielded only if they "rest on confidential information obtained from the client." *In re Sealed Case*, 737 F.2d 94, 99 (D.C. Cir. 1984). But because a claimant must always "present to the court sufficient facts to establish the privilege," as Justice Ginsburg has noted, a claimant in this context "must demonstrate with *reasonable certainty* that the lawyer's communication rested in *significant and inseparable part* on the client's confidential disclosure." *Id.* (emphases added and citation omitted). *See, e.g., American Standard, Inc. v. Pfizer Inc.*, 828 F.2d 734, 745 (Fed. Cir. 1987) (privilege applies to "lawyer-to-client communications that reveal, directly or indirectly, the substance of a confidential communication by the client"); *United States v. (Under Seal)*, 748 F.2d 871, 874 (4th Cir. 1984) (privilege "may also be extended to protect communications by the lawyer to his client . . . if those communications reveal confidential client communications"); *Matter of Fischel*, 557 F.2d 209, 211 (9th Cir. 1977) ("The privilege does not extend, however, beyond the substance of the client's confidential communications to the attorney."); M. Larkin, *supra*, at 2–57 to -58 ("The privilege also protects the legal advice provided by the attorney to the client, but generally only to the extent that disclosure would reveal the substance of the client's confidential communication.").

In this case, Ms. Napolitano has alleged nothing to suggest, much less "demonstrate with reasonable certainty," that the disclosure of statements made by Ms. Napolitano to Judge Hoerchner would also reveal the content of confidential statements made by Judge Hoerchner, on whose behalf she has invoked the privilege, to Ms. Napolitano. Indeed, Ms. Napolitano has not indicated that she had received *any* communication from Judge Hoerchner between October 9, 1991, when she agreed to represent professor Hill, and October 11, 1991, when Ms. Napolitano made the allegedly privileged statements to Judge Hoerchner during the Judiciary Committee interview. On the contrary, a careful reading of Ms. Napolitano's assertions suggests that no such communication took place.

When Ms. Napolitano asked to confer with Judge Hoerchner and her counsel off the record, Judge Hoerchner was testifying about the date of a particular phone call between herself and Professor Hill. In the current confirmation proceedings, the Committee asked Ms. Napolitano: "Prior to and during Hoerchner's testimony before the Judiciary Committee [on October 13, 1991], did you have any discussions with Hoerchner or her representatives about the timing of Hill's call?" Ms. Napolitano answered: "I did have at least one discussion with Judge Hoerchner *after* the interview and prior to her Committee appearance. The conversation took place in a room in the Capitol and, to the best of my recollection, was on Saturday, October 12, 1991." Napolitano Answers, *supra*, at 7-8 (emphasis added). If that response is truthful, then the October 11 statements from Ms. Napolitano to Judge Hoerchner would have *no* possibility to reveal the contents of confidential statements made by Judge Hoerchner to Ms. Napolitano, because no prior conversations between them had occurred.

The Biden, Hazard and Gillers memoranda all fail to address this issue.

III. EVEN IF A "POOLED INFORMATION" PRIVILEGE WERE OTHERWISE AVAILABLE, THE DISPUTED STATEMENTS WOULD BE SUBJECT TO IN CAMERA REVIEW TO DETERMINE WHETHER THE CRIME-FRAUD EXCEPTION SHOULD APPLY

It is hornbook law that the attorney-client privilege "'ceas[es] to operate at a certain point, namely, where the desired advice refers *not to prior wrongdoing*, but to *future wrongdoing*.'" *Zolin*, 491 U.S. at 562–63, quoting 8 J. Wigmore, *supra*, §2298, at 573 (emphasis in Wigmore). *See also* M. Larkin, *supra*, §2.07[1], at 2-138 to -139 ("The privilege does not protect communications made by either the client or the attorney for the purpose of providing or receiving advice or assistance with respect to, in furtherance of, or to induce or to conceal the commission of a present, continuing, or future crime or fraud. . . ."). The crime-fraud exception is fully applicable where the future wrongdoing involves the presentation of false testimony. *See e.g., United States v. Townsley*, 843 F.2d 1070, 1086 (8th Cir. 1988); *United States v. Soudan*, 812 F.2d 920, 925 (5th Cir. 1986), *cert. denied*, 107 S. Ct. 2187 (1987); *United States v. Gordon-Nikkar*, 518 F.2d 972, 975 (5th Cir. 1975).

The crime-fraud exception applies not only to the attorney-client privilege, but to the "pooled information" extension of the privilege. *See, e.g., Haines v. Liggett Group, Inc.*, 975 F.2d 81, 94–97 (3d Cir. 1992). Indeed, the draft Restatement on which Ms. Napolitano principally relies stresses the importance of the crime-fraud exception in this contest, precisely because "the pooled-information rule may increase the risk of illegal collusion." Restatement, *supra*, §126 comment b. The Restatement argues that "the rule does not lead to significantly increased collusion," because it "protects pooling arrangements only for legitimate purpose." *Id.* Thus,

"If the purpose of the participating members of the pool is to further future crimes or frauds, for example to present perjured testimony or other false evidence, the illegal-act exception to the privilege removes its protection entirely." *Id.*

In *Zolin*, the Supreme Court developed three standards for evaluating claims that the crime-fraud exception is applicable. First, the Court held that "*in camera* review may be used to determine whether allegedly privileged attorney-client communications fall within the crime-fraud exception." 491 U.S. at 574. The Court noted that the absence of such review would produce the "absurd result" that crime-fraud claims could almost never be proven. *Id.* at 566. Second, the Court held that the party seeking to establish the crime-fraud exception, in order to obtain an *in camera* review, "must present evidence sufficient to support a *reasonable* belief that *in camera* review *may* yield evidence that establishes the exception's applicability." *Id.* at 574–75 (emphases added). The Court stressed that because "a lesser evidentiary showing is needed to trigger *in camera* review than is required ultimately to overcome the privilege," the applicable standard "need not be a stringent one." *Id.* at 572. Third, the Court held that the threshold showing to obtain *in camera* review may by met by using "*any* relevant evidence"—even unprivileged evidence that is "not 'independent' of the contested communications." *Id.* at 574–75 (emphasis added).

In this case, there is more than enough evidence to meet the low *Zolin* threshold for triggering *in camera* review. According to Judiciary Committee records, the staff "received one phone call from [Judge Hoerchner]—on September 18—who explained that she had one conversation with Professor Hill [in which Professor Hill alleged that she was being sexually harassed]—*in the spring of 1981*." Chronology Released By Senator Biden, *reprinted in* D. Brock, *The Real Anita Hill* 211 (1993) (emphasis added). During the October 11 interview by Judiciary Committee lawyers, moreover, Judge Hoerchner testified that "I remember mainly one telephone call, and I have only been able to guess at the time—sometime before September 1981. That was a time when we spoke fairly regularly by telephone." Transcript of Hoerchner Interview (Oct. 11, 1991), *reprinted in* D. Brock, *supra*, at 212. (In September 1981, Judge Hoerchner moved from Washington, D.C. to California, after which time, according to her own testimony, she enjoyed only "less than sporadic" contact with Professor Hill.) Based on this evidence, Justice Thomas could not have been the person about

whom Professor Hill was then complaining to Judge Hoerchner, because Professor Hill did not even begin working for Thomas until Fall 1981, and does not allege that any harassment occurred during the first three months of her employment.

During the October 11, 1991 interview of Judge Hoerchner, a GOP Staffer apparently recognized the significance of the dates specified by Judge Hoerchner, and began to press her on this point:

Q: And, in an attempt to try to pin down the date a little bit more specifically as to your first phone conversation about the sexual harassment issue in 1981, the year you mentioned, you said the first time you moved out of Washington was September of 1981; is that correct?

A: Right.

Q: Okay. Were you living in Washington at the time you two had this phone conversation?

A: Yes.

Q: So it was prior to September of 1981?

A: Oh, I see what you are saying.

Q: I am just trying for the benefit of everybody to get to the truth, to pin down the——

A: I think I was. Yes. I'm sorry. That isn't something that I can——

Q: Okay.

A: I was living in Washington prior to that time. I'm not sure that was the time of the phone call, but I really think it was.

Q: Okay. You were or were not living in Washington when you think you had this—do you think you were living in Washington or not?

A: I think I was.

Q: So that would make it prior to September of 1981?

A: Yes, if my memory——

Id., reprinted in Napolitano Answers, *Supra*, Exhibit A, at 2. Before Judge Hoerchner could continue with her testimony, Ms. Napolitano interjected: "Can I meet with the witness? Can we talk for just a minute?" *Id.*

After Ms. Napolitano spoke to Judge Hoerchner—the communication that she now asserts to be privileged—Judge Hoerchner claimed not to remember when the relevant conversation with Professor Hill had occurred or where she was living when it did occur. Two days later, Judge Hoerchner testified before the Committee. She again claimed uncertainty about the date of her conversation with Professor Hill, but she asserted confidently, although for the first time, that the alleged harassment occurred *after* Professor Hill had started working for Justice Thomas—by which time Judge Hoerchner had moved to California and ceased to have any regular contact with Professor Hill. Moreover, she positively identified Justice Thomas, which she had declined to do during her October 11 interview, as the alleged harasser:

"I remember, in particular, one conversation I had with Anita. I should say, before telling you about this conversation, that I cannot pin down its date with certainty. I am sure that it was after she started working with Clarence Thomas, because in that conversation, she referred to him as her boss, Clarence."

Testimony of Judge Hoerchner to Senate Judiciary Committee (Oct. 13, 1991), *reprinted in* D. Brock, *supra*, at 215. *Compare* Transcript of Hoerchner Interview (Oct. 11, 1991) *(reprinted in* D. Brock, *supra*, at 209) ("Q: [D]id Anita Hill mention Clarence Thomas' name during that telephone call? A: I *think* she referred to him as Clarence." (emphasis added)).

Based on this sequence of events, a reasonable person could believe that *in camera* review "may yield evidence" to establish the applicability of the crime-fraud exception. *Zolin*, 491 U.S. at 574–75. One reasonable explanation of these events is that Ms. Napolitano interrupted the October 11 interview to warn Judge Hoerchner that her testimony was gravely undermining the allegations of Professor Hill, and to thus encourage changes in that testimony.

Ms. Napolitano responds that her conduct cannot support an inference of improper behavior because "[a]t no point during the questioning was [Judge Hoerchner] able to date with conviction or precision a telephone call which had occurred ten years earlier." Napolitano Answers, *supra*, at 7. That explanation appears doubly misleading, however. First, it fails to account for the fact that Judge Hoerchner did state that the telephone conversation occurred in Spring 1981, without apparent hesitation, during her September 18, 1991 conversation with Judiciary Committee staff. Second, even in her October 11 interview, Judge Hoerchner stated with apparent "conviction" (before speaking with Ms. Napolitano) that the conversation had occurred "sometime before September 1981"—a highly relevant interval that Judge Hoerchner articulated with apparent "conviction" not because she could date a particular conversation with "precision," but because she remembered where she was living ("That was a time when we spoke fairly regularly") when it occurred.

Professor Hazard speculates that Ms. Napolitano might have interrupted the October 11 interview "to help the witness avoid giving inaccurate testimony" by counseling her to state "that she cannot precisely remember, if that is the situation." Hazard Letter, *supra*, at 6. The factual basis for this speculation appears to be that Ms. Napolitano, like Judge Hoerchner, recognized that the "previous dating" of the conversation by Judge Hoerchner "was erroneous if the conversation had occurred while Ms. Hoerchner was still living in Washington." *Id.* at 5. That proposition is simply mistaken. At the point when Ms. Napolitano interrupted the October 11 proceedings, Judge Hoerchner had previously stated that her conversation with Professor Hill had occurred either in the "spring of 1981" (in her September 18 conversation with the judiciary Committee staff) or "sometime before September 1981" (earlier during the October 11 interview itself). Neither of these "previous dating[s]" would be "erroneous if the conversation had occurred while Ms. Hoerchner was still living in Washington."

Perhaps there are innocent explanations of Ms. Napolitano's actions as well, but the purpose of the sufficiency determination under *Zolin* is not to establish conclusively that the crime-fraud exception applies, but only to decide whether a more careful investigation is warranted. Here, that low threshold standard is easily met.

Unless the Senate conducts further investigation, *in camera* or otherwise, the American people will probably never know whether Janet Napolitano intended to encourage false testimony on October 11, 1991, or whether a prospective United States Attorney with the power to prosecute ordinary citizens for aiding and abetting perjury is herself guilty of the same offense. That doubt is unfair to the people of Arizona and, if she is in fact above reproach, unfair to Ms. Napolitano herself. No privilege law prevents the Senate from attempting to resolve it.

IV. JUDGE HOERCHNER'S ASSERTION OF ATTORNEY-CLIENT PRIVILEGE DOES NOT EXCUSE MS. NAPOLITANO FROM ANSWERING QUESTIONS ABOUT HER COMMUNICATIONS WITH WITNESSES OTHER THAN JUDGE HOERCHNER

Members of the Judiciary Committee questioned Ms. Napolitano about her role in advising not only Judge Hoerchner, but also Professor Hill and two other witnesses, Ellen Wells and John Carr. Ms. Napolitano declined to answer questions involving her communications with *any* of these individuals, even though she identifies Judge Hoerchner as the *only* client who has asserted any privilege. Even a proper invocation of privilege by Judge Hoerchner, however, at most would protect communications between *her* and Ms. Napolitano.

Question 12 asked Ms. Napolitano about her discussions with Professor Hill. Ms. Napolitano responded that "[t]he few conversations I had with Professor Hill are covered by the attorney-client privilege; and, therefore, I am precluded from answering these questions." Napolitano Answers, *supra*, at 12. But Judge Hoerchner has no privilege in *these* conversations, and Ms. Napolitano has not asserted any privilege on behalf of Professor Hill. To the contrary, by failing to mention any assertion of privilege by her own client, Ms. Napolitano has implied that Professor Hill is *not* asserting any privilege. Therefore, the Senate certainly should require Ms. Napolitano to answer Question 12.

Questions 13, 15 and 16 likewise asked Ms. Napolitano about her discussions with Professor Hill, Ms. Wells and Mr. Carr. In refusing to answer pertinent portions of these questions, Ms. Napolitano stated that "[i]f the questions are meant to reveal discussions or advice given in meetings with the corroborating witness, the privilege has been asserted and I am bound by the privilege" (Question 13) and that "[a]ny advice I may have given to them is subject to the attorney-client privilege and I am bound by the privilege" (Question 15). Napolitano Answers, *supra*, at 12–13. (Ms. Napolitano asserted no independent justification for her failure to answer pertinent portions of Question 16.) Again, however, the only person Ms. Napolitano has identified as asserting a privilege is Judge Hoerchner, and Ms. Napolitano has not alleged that Judge Hoerchner was involved in any way in her conversations with these other individuals. Therefore, the Senate should require Ms. Napolitano to answer these questions to the extent they relate to her dealings with Professor Hill, Ms. Wells, and Mr. Carr.

Ms. Napolitano's invocation of attorney-client privilege with respect to her communications with Ms. Wells is improper for yet another reason as well. According to Ms. Napolitano herself, "Ellen Wells had no separate representation." Napolitano Answers, *supra*, at 3. The law is clear, however, that "[a] person who is not represented by a lawyer cannot participate as a member of a pooled-information arrangement." Restatement, *supra*, at § 126 comment d. *See also, e.g., Government of Virgin Islands v. Joseph*, 685 F.2d 857, 862 (3d Cir. 1982); Biden Memorandum, *supra*, at 5 n.6. On this additional ground, the Senate should require Ms. Napolitano to answer all questions about her communications with Ms. Wells.●

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of Calendar Nos. 252, 253, 254,

255, 256, 257, and 258; that the resolutions each be deemed read a third time, passed, the preambles be agreed to en bloc, the motions to reconsider be laid upon the table en bloc, and any statements relative to the passage of these items appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL LAW ENFORCEMENT TRAINING WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 75) designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, the preamble are as follows:

S.J. RES. 75

Joint resolution designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week".

Whereas law enforcement training and the sciences related to law enforcement are critical to the immediate and long-term safety and well-being of this Nation because law enforcement professionals provide service and protection to citizens in all sectors of society;

Whereas law enforcement training is a critical component of national efforts to protect the citizens of this Nation from violent crime, to combat the malignancy of illicit drugs, and to apprehend criminals who commit personal property, and business crimes;

Whereas law enforcement training serves the hard working and law abiding citizens of this Nation;

Whereas it is essential that the citizens of this Nation be able to enjoy an inherent right of freedom from fear and learn of the significant contributions that law enforcement trainers have made to assure such right;

Whereas it is vital to build and maintain a highly trained and motivated law enforcement work force that is educated and trained in the skills of law enforcement and the sciences related to law enforcement in order to take advantage of the opportunities that law enforcement provides;

Whereas it is in the national interest to stimulate and encourage the youth of this Nation to understand the significance of law enforcement training in the law enforcement profession and to the safety and security of all citizens;

Whereas it is in the national interest to encourage the youth of this Nation to appreciate the intellectual fascination of law enforcement training; and

Whereas it is in the national interest to make the youth of this Nation aware of career options available in law enforcement and disciplines related to law enforcement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 2, 1994, through January 8, 1994, is designated as "National Law Enforcement Training Week".

NATIONAL MILITARY FAMILIES RECOGNITION DAY

The Senate proceeded to consider the joint resolution (S.J. Res. 115) designating November 22, 1993, as "National Military Families Recognition Day," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 115

Whereas the Congress recognizes and supports the Department of Defense policies to recruit, train, equip, retain, and field a military force that is capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas, in times of war and military action, military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of the United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and educational opportunities;

Whereas 74 percent of officers and 55 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses and children) comprise more than one-half of the active duty community of the Armed Forces, and spouses and children of members of the reserve component of the Armed Forces in paid status comprise more than one-half of the individuals constituting the reserve component of the Armed Forces community;

Whereas hundreds of thousands of spouses, children, and other dependents living abroad with members of the Armed Forces face financial hardship and feelings of cultural isolation;

Whereas the significantly reduced global military tensions following the end of the Cold War have resulted in a downsizing of the national defense and a refocusing of national priorities on strengthening the American economy and increasing competitiveness in the global marketplace;

Whereas the Congress is grateful for the sacrifices of military families and is committed to assisting the service members and their families who undergo the transition from active duty to civilian life; and

Whereas military families are devoted to the overall mission of the Department of Defense and have supported the role of the United States as the military leader and protector of the Free World: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 22, 1993 is designated as "National Military Families Recognition Day" in appreciation of the commitment and devotion of present and former military families and the sacrifices that such families have made on behalf of the Nation and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

IRISH-AMERICAN HERITAGE MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 119) to designate the month of March 1994 as "Irish-American Heritage Month," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, the preamble are as follows:

S.J. RES. 119

Joint resolution to designate the month of March 1994 as "Irish-American Heritage Month".

Whereas the first Irish emigrants arrived in America as early as 1621;

Whereas 9 of the generals who served in the Continental Army during the American Revolution were Irish born;

Whereas Commodore John Barry of County Wexford, Ireland, served brilliantly in the Continental Navy and is widely regarded as the father of the American Navy;

Whereas James Smith, George Taylor, Matthew Thornton, and Charles Thomson, 4 of the individuals who signed the Declaration of Independence, were Irish born and 9 other signers were of Irish ancestry;

Whereas the contributions of the Irish to America's victory in the American Revolution led Lord Mountjoy to exclaim in the British Parliament that "America was lost by the Irish emigrants";

Whereas beginning at the time of the potato blight and famine in Ireland in 1845, over 700,000 Irish immigrants came to the United States during the 1840's, 900,000 during the 1850's, and over 300,000 in each decade through 1910;

Whereas Irish Americans participated heavily in the industrial and economic development of America during the nineteenth century, building our cities and canals and the railroads that expanded the Nation to the West;

Whereas even today, it is said that under every railroad tie an Irishman is buried;

Whereas the Irish contributed greatly to the development of the labor movement in the United States, including the establishment of the American Miners Association in 1861;

Whereas nearly 150,000 natives of Ireland served in the Union forces during the Civil War;

Whereas more than 500 members of the Irish Brigade were killed while fighting for the Union in the Battle of Antietam on September 17, 1862, a date that has been called the bloodiest day in American history;

Whereas the Irish Brigade fought courageously in several other Civil War battles including Fredericksburg, Chancellorsville, Yorktown, Fair Oaks, Gaines Mill, Allen's Farm, Savage Station, White Oak Bridge, Glendale, Malvern Hill, Gettysburg, and Bristow Station;

Whereas in 1892, Annie Moore from County Cork, Ireland, at age 15 became the first immigrant to pass through Ellis Island;

Whereas Irish Americans have made numerous contributions to the arts and to

sports, as exemplified by the achievements F. Scott Fitzgerald, Eugene O'Neill, Helen Hayes, Georgia O'Keefe, John L. Sullivan, and Connie Mack;

Whereas the first woman to serve as the organizer of the American Federation of Labor was Mary Kennedy O'Sullivan;

Whereas at the beginning of the twentieth century, many of the school teachers in America's largest cities were Irish American women;

Whereas President John F. Kennedy was the first American President to visit Ireland during his term in office;

Whereas Irish Americans, including Kathryn Sullivan, the first American woman to walk in space, and Christa Corrigan McAuliffe, America's first school teacher in space who perished on the Challenger mission, have bravely served as America's pioneers in space;

Whereas more than 200 Irish Americans have been awarded the Congressional Medal of Honor;

Whereas President William Jefferson Clinton is the nineteenth American President of Irish ancestry;

Whereas 37 United States governors and mayors designated March 1993 as "Irish-American Heritage Month"; and

Whereas 44 million Americans are of Irish ancestry: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of March 1994 is designated as "Irish-American Heritage Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this month with appropriate ceremonies and activities.

NATIONAL DRUNK AND DRUGGED DRIVING PREVENTION MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 122) designating December 1993 as "National Drunk and Drugged Driving Prevention Month," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 122

Whereas impaired driving is the most frequently committed violent crime in the United States;

Whereas last year 45 percent of those who died on our Nation's highways were the result of alcohol involved crashes;

Whereas last year nearly eighteen thousand people were killed and one million two hundred thousand were injured in crashes involving alcohol;

Whereas impaired driving continues to cost society some $46,000,000,000 each year in direct costs;

Whereas medical costs associated with impaired driving run approximately $5,500,000,000 a year;

Whereas injury and property damage resulting from impaired driving cause physical, emotional, and economic hardship for hundreds of thousands of adults and young people;

Whereas the ongoing work of citizen activists groups such as Mothers Against Drunk Driving (MADD), Students Against Driving Drunk (SADD), Remove Intoxicated Drivers (RID), and the National Commission Against Drunk Driving continue to promote good prevention efforts which have contributed to a 30 percent reduction in alcohol-related traffic deaths over the past decade;

Whereas a decade of intense public education effort has proved that alcohol-related highway crashes are not accidents and can be prevented;

Whereas comprehensive community-based strategies to further reduce and prevent impaired driving tragedies are known to be effective;

Whereas an increased public awareness of the gravity of the problem of drunk and drugged driving may help to sustain efforts to develop comprehensive solutions at the State and local levels;

Whereas more than seventy public and private sector organizations have joined together to carry out a nationwide public information, education, and enforcement campaign during the December holiday season;

Whereas the Secretary of Transportation has set a goal by the year 1997 to reduce alcohol-related fatalities to 43 percent and MADD has set a goal by the year 2000 to reduce alcohol-related traffic fatalities to 40 percent;

Whereas the Secretary of Health and Human Services has set a goal by the year 2000 for all fifty States to prohibit any allowable blood-alcohol concentration tolerance level for drivers younger than age twenty-one; and

Whereas December is a month of many holidays and celebrations, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of December, 1993 is designated as "National Drunk and Drugged Driving Prevention Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate activities.

GEOGRAPHY AWARENESS WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 131) designating the week beginning November 14, 1993, and the week beginning November 13, 1994, each as "Geography Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, the preamble are as follows:

S.J. RES. 131

Joint resolution designating the week beginning November 14, 1993, and the week beginning November 13, 1994, each as "Geography Awareness Week".

Whereas geography is the study of people and their planet, offering a framework for understanding ourselves, our interdependence with other peoples, our relationship to the Earth, and world events;

Whereas the United States has both worldwide involvements and influence that demand an understanding of geography, different cultures, and foreign languages;

Whereas a thorough knowledge of geography, different cultures, and foreign languages is essential to maintain the Nation's stature in the international community in matters of business, politics, the environment, and global events;

Whereas a geographic perspective is needed to understand the relationship between human activity and the condition of our planet in this time of increasing environmental problems;

Whereas our Nation's Governors, in the National Education Goals, explicitly identified geography along with English, mathematics, science, and history as the 5 core subjects in which American students should demonstrate competency;

Whereas world standards are being developed as benchmarks for student performance in each of the core subjects identified in the National Education Goals; and

Whereas a knowledge of world geography is essential for citizens of the United States to assume a responsible role in the future of an increasingly interconnected and interdependent world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 14, 1993, and the week beginning November 13, 1994, each be designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate ceremonies and activities.

NATIONAL CHILDREN'S DAY

The Senate proceeded to consider the joint resolution (S.J. Res. 139) to designate the third Sunday in November of 1993 as "National Children's Day," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble are as follows:

S.J. RES. 139

Joint Resolution to designate the third Sunday in November of 1993 as "National Children's Day".

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should not be allowed to feel that their ideas and dreams will be stifled because adults in the United States do not take time to listen;

Whereas many children face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to remain at home;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety;

Whereas the designation of a day to commemorate the children of the Nation will

emphasize to the people of the United States the importance of the role of the child within the family;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas parents, teachers, and community and religious leaders should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the third Sunday in November of 1993 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

NATIONAL WOMEN VETERANS WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 142) designating the week beginning November 7, 1993, as "National Women Veterans Recognition Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 142

Joint resolution designating the week beginning November 7, 1993, as "National Women Veterans Recognition Week".

Whereas there are more than 1,200,000 women veterans in the United States representing 4.6 percent of the total veteran population;

Whereas the number of women serving in the United States Armed Forces and the number of women veterans continue to increase;

Whereas women veterans have contributed greatly to the security of the United States through honorable military service, often involving great hardship and danger;

Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas the lack of attention to the special needs of women veterans has discouraged or prevented many women veterans from taking full advantage of the benefits and services to which they are entitled; and

Whereas designating a week to recognize women veterans will help both to promote important gains made by women veterans and to focus attention on the special needs of women veterans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 7, 1993, is designated as "National Women Veterans Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

NATIONAL HEALTH INFORMATION MANAGEMENT WEEK

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 205, designating National Health Information Management Week, just received from the House; that the resolution be deemed read a third time, passed, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relative to the passage of this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 205) was deemed read a third time and passed.

The preamble was agreed to.

THE SCHEDULE

Mr. MITCHELL. Madam President, as I indicated and as has previously been agreed to by the Senate, the Senate will on Monday take up the matter relating to the resolution by the Ethics Committee regarding Senator PACKWOOD. The Senate will consider that matter for as long as debate continues.

On Tuesday, in accordance with the order just obtained, there will be a cloture vote at 2:15 on the five nominations to which I referred and, if cloture is invoked, there will be 90 minutes of debate on those nominees, and then votes on each of them at the conclusion of the 90 minutes.

It is my intention to proceed to other legislation, including the crime bill, education, and other matters which may be appropriate for consideration following the disposition of the Ethics Committee resolution and the nominations to which I have just referred.

It is also my intention to proceed as soon as possible thereafter to consideration of the rescission and spending cut package and the balanced budget amendment, and that will occur in the near future, following consideration of some of the measures to which I have referred.

I do not intend to make this an exclusive list or be bound with respect to the order of the days but so that Senators can be alert to what is coming. I wanted to make that clear.

Madam President, I now ask unanimous consent that Senators GORTON, SIMPSON, and SARBANES be recognized to address the Senate and that at the conclusion of their remarks the Senate then stand in recess as previously ordered.

Mr. SARBANES. Madam President, I just want to put a couple questions to the majority leader, if I might.

Mr. MITCHELL. I will yield for a question.

Mr. SARBANES. As I understand it, we are going to have another cloture vote on Tuesday; is that correct?

Mr. MITCHELL. That is correct. At 2:15 on Tuesday there will be a cloture vote.

Mr. SARBANES. I listened to the exchange, which is what brought me to the floor, and it was asserted that people who require us to go to cloture votes in order to do business are operating within the rules of the Senate.

I simply want to make the point that they may be operating within the letter of the rules of the Senate but, in my judgment, they are not operating within the spirit of the rules of the Senate, as witnessed by the majority leader's statement about how rarely the filibuster was used in most Congresses since that technique has been available and how frequently it is now being used, almost as a standard course of business.

Of course, what it is doing is thwarting the ability of the institution to come substantively to grips with the issues that are before it.

In this instance, it has even reached the point of holding up nominees for some totally unrelated matter, but it is happening on a whole range of issues that are coming before the Senate that are preventing us from action.

I am frank to tell the majority leader, as to this committee on which I serve that is looking into the procedures of the institution and how we function, one of the things we need to come to grips with is the use of this filibuster. Otherwise, I do not see how the Senate as an institution is going to be able to do the Nation's business.

We are prevented from acting on measures up or down by the use of this filibuster and the requirement of an extraordinary majority.

What has happened now, at least in my perception, is that Members are filibustering and holding up action on particular measures for reasons totally unrelated to that particular issue that is before the Senate. They get angry at some department because they will not take an administrative action they want them to take, and they come out here and slap a hold on an item and then proceed to use a filibuster in order to keep the Senate from acting.

In the end what it does is prevent a majority of the institution from working its will on important legislation.

I do not know how many times in the last Congress a cloture motion had to be filed in order to try to do the job.

I heard one of my colleagues say—"Well, this is all within the rules of the Senate." I just want to make the point. Technically that is correct. But, in effect, what has happened is the rules of the Senate, which allow for a certain course of conduct, in my judgment, are not being used but abused, and they are being abused repeatedly preventing the Senate from doing its business.

The immediate way to get around it is to vote cloture, but my own view is we have to try to address a more fundamental change than that. It is really not fair to the institution. It is certainly not fair to the American people. Of course, the more it is used the more people resort to its use.

I have seen it happen in the course of my service in the Senate. Filibustering has gone from being an extraordinary thing to being a standard weapon and a standard technique. It was never intended to be that. The use of the filibuster in that fashion, in my judgment, is an abuse of the spirit of the rules. It is like any rule or like most rules which require a certain amount of self-restraint in their use. If you do not exercise that self-restraint and you carry it out to the limits, it becomes an abuse, and then you have to try to revise the rules somehow in order to limit the abuse.

I am frank to say I think the Senate has reached that point on this matter.

I thank the majority leader for yielding.

Mr. MITCHELL. Mr. President, I thank my colleague for his comments.

Mr. President, I renew my request.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

Mr. MITCHELL. I modify my request.

I gather the Senator from Maryland is not going to wish to speak.

Mr. SARBANES. The Senator is correct.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the request be modified that it be just Senators GORTON and SIMPSON be recognized and at the conclusion of their remarks the Senate stand in recess, as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, if I might, in response to my friend from Maryland, because I listened to that with whimsical humor. It overtook me, actually, because it is like the old phrase you never discuss the noose in the house of the hangman. I remember so well what happened with many, many of the nominations of President George Bush and President Ronald Reagan, the especially spirited number of hearings conducted by the Senator from Maryland with regard to the issue of contributions and ambassadorships, and things as mundane as that, which were spirited.

But let the Record show that Senator MITCH MCCONNELL, who has been referred to here, at least obliquely and perhaps personally, is at the bedside of his mother. That is where he is today. She is critically ill. He had a hold on these.

It is perfectly appropriate for this leader to bring this forward. But it is also perfectly appropriate to know what the situation is and why. There is always a reason for things in here, and then there is a real reason.

The real reason is because during the past administration there was a great folderol in the State Department as to who did what to whom and who leaked what during the campaign. Then we found the same set of circumstances, except a different administration in place, which was offensive to many, and there this was an instrument. It has nothing to do with the five people on there. It was an instrument to bring it to the attention of this body that you cannot talk out of both sides of one's mouth.

That is how we got here. And now it is going to be resolved. I will vote to invoke cloture. Cloture is a very important tool and it works very well, and it works especially well if you are a member of the minority. And it works especially well if the President is of the other party.

We have not used it much. This Senate gets a great deal done, thanks to the majority leader and the minority leader. We do a ton of business and we do it in a good atmosphere.

So it is fascinating to me that, when one little bump comes up, suddenly I am reminded and refreshed of how it really was for a lot of years when someone else was on the other side. It is a fascinating business.

Mr. MITCHELL. Mr. President, I, of course, as do all Senators, regret that Senator MCCONNELL's mother is ill and that has necessitated his absence. I did not bring up that fact in the discussion.

The reality is that we have been working on this for a few weeks now. After the delay of that period, I made a commitment to these nominees that I would bring this matter forward this week. I communicated, both to staff and directly with the Republican leader, that I made a commitment and I felt that I must honor that commitment that we proceed to try to bring this to a conclusion.

Most unfortunately, Senator MCCONNELL had to leave today because of the illness of his mother, and that is understandable.

The solution that we have reached, of course, means that we will not take these up and get to the debate until next Tuesday afternoon, which thereby permits me to honor the commitment I made to the nominees that we would bring this matter up this week and also permit time for Senator MCCONNELL to return and to be present during the debate.

So, I just wanted to make that point clear, that I am, of course, conscious of his circumstance and join all Senators in expressing our deepest sympathy and regret. I believe that this resolution permits both to occur; that the commitment to bring it up is honored, and time is permitted for him to return, and that time will be possible anyway under the cloture rules.

Mr. President, before I yield to the Senator from Maryland, I have one further unanimous-consent request that I would like to make.

PENSION ANNUITANTS PROTECTION ACT OF 1993

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of S. 1312, the Pension Annuitants Protection Act of 1993, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:.

A bill (S. 1312) to amend the Employee Retirement Income Security Act of 1974 in order to provide for the availability of remedies for certain former pension plan participants and beneficiaries.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1091

Mr. MITCHELL. Mr. President, on behalf of Senators METZENBAUM and KASSEBAUM, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. METZENBAUM, for himself and Mrs. KASSEBAUM, proposes an amendment numbered 1091.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 2, line 1, before the word "semicolon" add ""or" after the".

On page 2, line 7, delete "(A)".

On page 2, line 19, after "vided" add "or to be provided".

On page 3, lines 8–9, delete "other than the relief authorized in section 2 of this Act".

The PRESIDING OFFICER. Is there debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1091) was agreed to.

• Mr. DURENBERGER. Before the Senate considers S. 1312, I would like to ask a point of clarification from the sponsor of the bill, my colleague from Ohio, Senator METZENBAUM. As you know, S. 1312 seeks to make clear that parties bringing suit under ERISA for fiduciary breach in the purchase of insurance annuities, including the Department of Labor, may seek and recover appropriate relief. Is it your intention or the intention of this bill to specify the type of remedies to be awarded by a court?

Mr. METZENBAUM. No that is not my intention. The purpose of this bill is to make clear that the Department of Labor and private parties may seek appropriate relief for violations of ERISA. This bill does not seek to tell plaintiffs what type of relief they should seek or to approve or disapprove of particular remedies that have been

sought. It is my hope that private parties will seek and courts will fashion remedies appropriate to undo whatever harm has been caused by a violation of the law.

Mr. DURENBERGER. I thank my colleague for his explanation. I would also like to express my view that under this legislation courts should use their powers and discretion to tailor remedies in ways that fully protect workers and retirees but do not unduly burden employers.●

The PRESIDING OFFICER. If there is no further debate, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pension Annuitants Protection Act of 1993".

SEC. 2. CIVIL ENFORCEMENT OF ERISA.

Section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended—

(1) by striking the "or" after the semicolon at the end of paragraph (5),

(2) by striking the period at the end of paragraph (6) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(7) in the event that the purchase of an insurance contract or insurance annuity in connection with termination of an individual's status as a participant covered under a pension plan with respect to all or any portion of the participant's pension benefit under such plan constitutes a violation of part 4 of this title or the terms of the plan, by the Secretary, by any individual who was a participant or beneficiary at the time of the alleged violation, or by a fiduciary, to obtain appropriate relief, including the posting of security if necessary, to assure receipt by the participant or beneficiary of the amounts provided or to be provided by such insurance contract or annuity, plus reasonable prejudgment interest on such amounts.".

SEC. 3. WAIVER OR REDUCTION OF CIVIL PENALTY.

Section 502(l)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(l)(3)(B)) is amended by inserting "(or to provide the relief ordered pursuant to subsection (a)(7))" after "to restore all losses to the plan".

SEC. 4. EFFECT ON OTHER PROVISIONS.

Nothing in this Act shall be construed to limit the legal standing of individuals to bring a civil action as participants or beneficiaries under section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)), and nothing in this Act shall affect the responsibilities, obligations, or duties imposed upon fiduciaries by title I of the Employee Retirement Income Security Act of 1974.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to any legal proceeding pending, or brought, on or after May 31, 1993.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE FILIBUSTER PROBLEM

Mr. SARBANES. Mr. President, I simply say to my good friend, the distinguished Senator from Wyoming, that I came to the floor to speak on the filibuster problem, not particularly as it related to the specific issue of these nominees—and I am certainly sympathetic to the situation in which Senator MCCONNELL finds himself—but I really came over upon hearing a colleague on the other side who said, "Well, look, the use of the filibuster is within the rules and people who use the filibuster"—as they are continuously doing it—"are simply functioning within the rules."

The point I want to make is that, while that is technically within the letter of the rules, I think it is outside the spirit of the rules.

What has happened is that the filibuster—and the Senator himself just said it is a very effective use by the minority—in effect, what the minority does by consistently using it, as they have done in this Congress on virtually every measure of major consequence, is they prevent the institution from coming to grips with these issues unless they can produce a supermajority.

That is exactly what happened to the President's jobs stimulus program. We were never able to vote on it because the filibuster rule was used in order to thwart the ability of the majority to move forward with it.

When the distinguished Senator's father served in the Senate, the filibuster was hardly ever used. Members were prepared, in the end, to allow these issues to go to a vote and be voted up or down and let the majority of the institution prevail. That is no longer being allowed.

The filibuster is being used virtually as a standard technique on any measure of consequence that has any controversy associated with it.

It is my very strongly held view that this is not a use of the rules, this is an abuse of the rules. What it is doing is, in effect, undercutting the ability of the U.S. Senate to act as an institution that can come face to face with issues that are before the country.

One only has to look at the number of times that the filibuster has been used and cloture has had to be invoked in recent years.

What happens, of course, is that, in the end, if the filibuster is going to be used, every Member starts using it.

I am interested to hear the Senator's statement, because the filibuster traditionally was never used as sort of a standard technique by the minority party to thwart the ability of the Senate to come to grips with issues. But that is now what is happening.

I think we all need to step back from this and take a look at what is occurring. If you have any concern for the Senate as an institution in this democracy, with an ability, to substantively act on measures and come to grips with them, I think you have to recognize that the filibuster now has become a major stumbling block to the effective functioning of the Senate. I think we are going to have to start considering what to do about it.

The traditional argument that is made for its use is it prevents hasty action. And that is not an argument without some merit. But what is happening here is it is not only preventing hasty action, it is preventing any action at all.

The question then really arises as to whether we ought not to consider reforming this rule in such a way that it allows for some delay in considering matters. But, in the end, you cannot be thwarted from considering the matter. I think that is a matter that we are going to have to come to grips with at some point if this rule continues to be abused in the manner in which it has been taking place in recent times.

Mr. SIMPSON. Mr. President, I do enjoy my colleague from Maryland. He is one of the brightest people in this Chamber and speaks with great passion.

But, as I say, I get a whimsical, almost wry response and feeling when I remember how it was when the President of the United States was in the other party.

But I think the record will show that this Congress has been very, very productive. One need only to look at what we have dealt with and what we have passed.

Simply because there are still some lingering emotions about a singular time when we stiffed the other side of the aisle with regard to the activity that the Senator referred to is no reason at all to believe that that is the way that this place works.

The record does not disclose anything more than that this has been a very productive session, because of the Senator from Maine, the majority leader, and the Senator from Kansas, the minority leader, who understand each other perfectly, who work in an arena of trust and partisanship. And that is the way it works.

But what has happened, and the reason the filibuster is a little more applied in these latter days is because in committee, with all the horses, the Republicans will put in an amendment and suddenly, with no debate or cursory debate, suddenly—whammo. That is it. School is out. We are not going to deal with your amendment in committee. And there has been a lot of that stiffing going on in this session.

So if you want to talk about real life, that is part of it.

So you stiff the minority in committee, and you know what they are going to do. We all know what they are going

to do. They are going to come here to the floor of the U.S. Senate, where they have an opportunity to put in their amendment.

So they put in an amendment that no one wanted to deal with in committee because it was too hot, and put the old tootsies right up to the fire. And the majority leader has no other option but to file a cloture motion because nobody wants to deal with that amendment because it might pass.

So let us look at all of it, keep it in perspective and know that this minority, this beleaguered 44, will help this President and have helped him with Somalia; have and will help him with regard to Russian aid while others on the other side of the aisle seem to drag their feet; and will be the vanguard of NAFTA, which is one of the most important things facing the country, and most of the votes will come from the Republicans.

We are here to work. We know why the hold was put on. If we just dealt honestly with things here the American public would understand it more clearly. The hold was put on by the Senator from Kentucky because, during the last administration and during the campaign it was determined that some rascals with the Republicans in the State Department were going through the files to find out personnel issues about people, real people in America, including the candidate for President.

The reason this hold was placed is because the IG had made a report that has to do with the administration looking into the files of personnel in the State Department to find out things about Bush appointees. So let us get it all out there, shovel it out here where we can see it. The IG made his report and we want the report made public as to why the administration was looking into the personnel files of the State Department with regard to Bush appointees. It is called the wheel coming full cycle.

I could quit but my colleague has run off for some more material, I think. I am going to wait. If the Senator from Maryland has any response I will certainly stay and address that. But that is the honest reason as to why this came up. The hold was placed simply because of the hypocrisy of one group saying you can go through the files when you are a Republican and it is no good but if you do it as a Democrat it is all right. That is how we got here.

I will certainly do anything I can to hold the RECORD open and session open, and I will stay so the Senator from Maryland can respond. I think under the order I will go to the Senator from Washington, if the Chair concurs.

The PRESIDING OFFICER. Under the previous order the distinguished Senator from Washington is recognized.

NAFTA AND THE AIRLINES

Mr. GORTON. Mr. President, last spring, with great fanfare, the administration announced the formation of the National Airline Commission. The administration rightly recognized that the aviation industry which had lost tens of thousands of jobs and suffered financial losses totaling over $10 billion during the last 3 years needed a thorough review. A distinguished panel deliberated for 3 months and issued a comprehensive set of recommendations. Unfortunately, since then, these recommendations have either been ignored or repudiated by this administration. This does not serve the aviation industry well and it does not serve this country well.

One of the major findings of the Airline Commission was that the present tax require on airlines defies common sense and good public policy. The Commission pointed out that the industry now pays more than $5 billion a year in Federal user fees and taxes. The Commission recommended that many of these taxes be reduced and that new taxes not be imposed on the industry. Yet before the print was even dry on this fine report, the President signed a bill imposing $1.5 billion in new transportation fuel taxes on the airlines over the next 5 years. Now again, as if this industry has not already borne a heavy enough financial burden, the administration proposes to impose more new fees to pay for NAFTA.

Initially, the administration proposed that in order to pay for revenue that will be lost by reduced tariffs under NAFTA we should double the existing $5 airline customs fee and impose a new $10 fee on passengers traveling to the Caribbean, Mexico, and Canada. These new fees were designed to raise $326 million a year.

Now the administration through a USTR spokeswoman claims that it never really proposed a new $5 fee, but just floated this idea to "see how Congress would react. We wanted some input and we got it." The administration got the input but has not yet got the message—a $5 increase, a $2.50 increase, or now a proposed $1.50 increase are all nonstarters and just not acceptable.

Last week, I received a letter from Ray Vecci, the president of Alaska Airlines—a company that enjoyed 19 years of consecutive profits until last year, when it went into the red. Mr. Vecci's letter explained why any new increases in fees must be rejected. Alaska Airlines currently serves four Mexican cities, Guadalajara, Los Cabos, Mazatlan, and Puerto Vallarta. An additional $10 for every ticket from these cities is more than the entire profit per passenger on these routes. That fee will mean less travel between the United States and Mexico, and more pain for a United States airline that expects to lose money this year.

Two weeks ago, I called our U.S. Trade Representative, Mickey Kantor and spoke with him again last week when the Senate Commerce Committee held a hearing on NAFTA implementing legislation. I told him that while I am a strong supporter of NAFTA, this new tax is entirely inappropriate and is the last thing our beleaguered airline industry can absorb. Many of my colleagues in the House also contacted the President and told him that it would be difficult for them to support any new taxes to pay for NAFTA. While I am encouraged that this message may be having an effect as we are beginning to see some signs of flexibility and reason coming from some administration officials, I am still concerned about the persistence of the airline passenger fee idea, that even now we are being told that we will not know if the administration will propose a new fee until the legislation is written this weekend or early next week.

It is ironic that the administration is considering placing a tax on the airlines for NAFTA since the adoption of NAFTA will have no direct impact on air transportation between the United States, Canada, and Mexico. Unique among industries, air service between the United States and foreign countries depends upon individually negotiated bilaterals. The administration's proposal would place us in the position of violating many of our bilaterals because most of our agreements require that any charges imposed on air carriers be related to airport or air traffic control costs. Clearly, this new fee would be completely unrelated to the present customs user fee which is imposed to pay for international inspectors and equipment.

In a further ironic twist, this new fee which supposedly would pay for worker retraining caused by NAFTA implementation, would likely result in further job losses in the airline industry.

One of my largest constituents in Washington State, the Boeing Co., has felt the pain of our airline industry. When airlines struggle, they stop buying planes, begin deferring orders, and often seek the best possible Government financing, which frequently now comes from Europe. All of these factors combined have caused huge job losses in the aviation manufacturing industry. Thousands of my constituents have lost their jobs.

Yet, the Boeing Co. supports NAFTA and was like the rest of the industry surprised when the administration decided to float a new airline fee. Boeing sees the overall agreement as a way of dismantling trade barriers, and of applying international rules to trade in services and investment. It expects Mexico's aircraft market to grow 25 percent to $10 billion between now and the year 2010. Perhaps most importantly, it sees NAFTA as a crucial precedent for our Nation's trade policy.Without its success, an Uruguay

round that lowers tariffs around the world and limits foreign aircraft manufacturing subsidies will be nearly impossible. NAFTA is one Government initiative that our aerospace industry truly does need.

Now, for all of its talk about helping our aerospace industry, the administration is considering a tax that would cost that industry jobs while defeating an initiative that would offer it some relief. I strongly urge the administration to find another means of financing these lost tariffs, so that I and many others can enthusiastically vote for this agreement, and see it pass.

Mr. SARBANES and Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The acting Republican leader.

Mr. SIMPSON. Mr. President, under the unanimous-consent agreement, I believe I have the floor and I will yield to the Senator from Maryland. The Senator from Montana has a moment of recognition.

But let me say this, and the Senator from Maryland will correct it in his own way or do whatever he wishes. As I spoke about the real reason why we are enmeshed here—and I wish Senator MCCONNELL were here as he could explain it so very much more clearly, but it is my understanding, and I said, the inspector general had made a report and we wanted it to be public to see what this administration was doing looking into the Bush personnel in the State Department.

It is my understanding that Senator MCCONNELL has been anxiously awaiting the inspector general's report and wants to make it public, to find out just exactly what did go on before these nominees went through. The nominees were, unfortunately, held hostage. I know the Senator from Maryland knows how well we do that on both sides of the aisle here in all administrations.

One of these fine people is well known to me, an Ambassador, and I have talked to the Senator's staff and asked why that person could not go forward. Now that person will go forward because I will vote for cloture on Tuesday, and we will move forward.

But you want to understand, Mr. President, that Senator MCCONNELL will continue his quest and the purpose of the quest, that when this report becomes available—and it is apparently not currently available—that, indeed, this Senator, Senator MCCONNELL, and I am sure others on our side of the aisle, will want to know what happened with it and will want it to be fully public so that we do not have any hypocrisy in the treatment of people in the State Department under different administrations.

I wish to get that clearly in the RECORD.

Mr. SARBANES. Will the Senator yield on that point?

Mr. SIMPSON. Yes, indeed.

Mr. SARBANES. I deferred earlier responding to the Senator when he made the statement, because I wanted to be certain of the accuracy. So I went to make a couple of telephone calls.

The Senator from Wyoming stated that the inspector general had made his report and that access to the report, or knowledge about the contents of that report was being denied. I did not think that was correct, but I was not certain of that. I have made a phone call, and what I have been informed is the inspector general has not completed his inquiry or investigation.

Now, of course, the inspector general operates with a degree of independence from the administration and, indeed, from the Congress, as he ought to.

So as I understand it—this is not an issue that I have been involved in, but as I understand it, that report has not been completed. The inspector general is still conducting his investigation. So you do not have a situation in which the inquiry has been completed and the report has been made and information about the findings of the report is being denied to people.

I further understand, I think as a matter of procedure, that if in fact the report turns up matters in which the Justice Department then takes an interest in a criminal sense, then you may have an ongoing problem about access since you would be interfering with a criminal investigation. But, of course, we do not even have the inspector general's report completed, which, as I understood it, from what the Senator said earlier, had been completed but that information about its findings was being denied to us. I do not think that is where we are.

I understand that is the Senator's understanding as I listened to his last statement. And I deferred earlier responding to him in saying what I have just said because I wanted to be certain that that was the case.

Mr. SIMPSON. Mr. President, that is essentially the case. As I expressed to the Senator from Maryland privately before this last colloquy, indeed, I wanted to correct that record, which I did. I think that that record is now correct.

But I would ask unanimous consent to be printed in the RECORD a letter from the Republican leader and Senator MCCONNELL to the Honorable Warren Christopher with regard to the issue of requesting information because of the media commentary that a State Department person from the White House Liaison Office had searched the records of 160 former political appointees and the protected contents of at least two of those files were publicly disclosed. I think it is rather extraordinary.

Subsequently, Department officials "insisting on anonymity" claimed the file search was "inadvertent."

It is difficult almost to determine what an inadvertent file search is. But since there had been such high old fun with a member of the State Department during the campaign, Senator MCCONNELL particularly wanted some answers to the questions of whether the search was requested or authorized by officials at the State Department acting alone or at the direction of the White House. These were questions asked of Secretary Christopher:

What was the intended use of the documents? Other than reporters at the Washington Post, who received information from these files. Is the individual involved still working at the Department of State?

The letter said:

These questions go to the heart of your administration of the Department of State. We believe they must be answered.

They were not answered, and therefore Senator MCCONNELL, as is his perfect right, placed a hold on these persons, and therefore that hold will now come up for a vote on cloture.

It is unfortunate but many Democrats, during the last administration, put holds on various nominees of the President of the United States, Ronald Reagan and George Bush, not because the nominees were not qualified but because they wanted the administration's attention or they wanted response to a special project or something that was totally unrelated to the nominee's qualifications or abilities.

That is what has happened here. That is what holds are used for. That is why it was a necessity for the leader to go to a cloture motion.

So those are realities just as real as the things the Senator from Maryland has previously discussed.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 9, 1993.

Hon. WARREN CHRISTOPHER,
Secretary, Department of State, Washington, DC.

DEAR SECRETARY CHRISTOPHER: We are writing to request your response to news reports alleging a former Clinton campaign official serving in the White House Liaison Office at the State Department searched the records of 160 former political appointees. The protected contents of at least two of these files were publicly disclosed.

Subsequently, Department officials "insisting on anonymity" claimed the file search was "inadvertent." Nonetheless, the Assistant Secretary for Administration was concerned enough to seal the documentary evidence and forward the matter to the Inspector General. Senior officials in your Department are obviously aware of and publicizing their interpretation of the events in this case.

This situation could reflect the misconduct of an individual former campaign worker or represent evidence of far reaching, politically motivated, illegal activity. We believe it is important that you offer answers to the following questions:

1. Was the search suggested, requested or authorized by officials at the State Department acting alone or at the direction of the

White House, Democratic Party or any other entity?

2. What was the intended use of these documents?

3. Other than reporters at the Washington Post, who received information from these files?

4. Is the individual involved still working at the Department of State?

These questions go to the heart of your administration of the Department of State. We believe they must be answered prior to proceeding with further consideration of the State Department's authorization or appropriations bills. We look forward to your prompt reply.

Sincerely,

ROBERT DOLE,
Republican Leader.
MITCH MCCONNELL,
U.S. Senator.

Mr. SARBANES. I am not suggesting that the filibuster has not been used on both sides. I am suggesting that it is now being abused, and we need to step back and take a look at it and see what we can do so it does not continue to thwart the ability of the institution to do business.

Mr. SIMPSON. I hear my friend. I hear my friend.

Mr. SARBANES. I would strongly make the case, if we could absent ourselves from this back and forth about who hit whom first—we can develop that back—it has now reached the point with where this tactic is really undercutting the ability of the Senate to function as a strong institution in our Democratic system.

Mr. SIMPSON. Mr. President, I would never want to see the Senate get in that position and the public record and the record of this fine session shows that that is not the case. We have moved a tremendous amount of legislation, a tremendous amount.

So it cannot be quite as oblique as portrayed.

Mr. SARBANES. That is for another debate because we can go through the measures and how the filibuster was used and how it thwarted the Senate. But increasingly there is a growing perception across the country that this technique is really preventing the Senate from coming to grips with the Nation's problems and constitutes a form of gridlock which I think undercuts the standing of the Senate as an institution which can respond to the problems of the American people. I think all of us, all 100 of us need to really think this through carefully in an institutional way.

In other words, we have to take ourselves out of a partisan context and be prepared to really confront how the institution ought to operate and whether the repeated use of this tactic, which in effect prevents a majority from finally taking action on measures, is good for the health of the Senate and good for the health of the country.

Mr. SIMPSON. Mr. President, I will join with the Senator from Maryland to dampen our partisan pursuits in that endeavor because he and I both enjoy that aspect of public life. He is very good at it. So am I. And if the Senator from Maryland wants to join in a bipartisan way to do things that make the Senate work better than it has, he and I will, and I shall look forward to that opportunity.

Let me then ask unanimous consent if the Senator from Montana could speak for 1 minute to introduce a remark about a deceased friend. Then I will proceed under the unanimous-consent request with a statement wholly unrelated to this item.

The PRESIDING OFFICER. The unanimous-consent request is granted. The Chair, in his capacity as a Senator from West Virginia, would observe that the preceding conversation between the two Senators has been thoughtful.

The Senator from Montana.

Mr. BURNS. I thank the Chair.

A TRIBUTE TO FRANK DUNKLE

Mr. BURNS. Mr. President, Frank H. Dunkle, former director of the U.S. Fish and Wildlife died in Denver last Saturday. He was aged 69.

He was appointed by President Reagan in 1986 and had a stormy tour of duty as he was the target of environmental groups and congressional critics who said the agency under his leadership paid more attention to politics than protecting the Nation's natural resources. But the record does not bear that out.

According to an Associated Press story out of Helena, MT, he was credited with helping to create the Nation's first national recreational fisheries policy while heading the Federal wildlife agency. He implemented a North American waterfowl management plan and negotiated an agreement with Canada and Mexico to improve conservation of migratory birds and wetland habitats.

He was a native of Oakmont, PA, and served in the U.S. Navy in World War II and Korea. He was a Montana game warden and Yellowstone National Park ranger while working toward bachelor's and master's degrees in wildlife management at Montana State University. He was appointed to the Montana Fish and Game Department in 1963 and played an important role in enacting the State's stream preservation law and began Montana's program of acquiring land for winter game ranges, waterfowl habitat and fishing access.

In 1970, Frank convened the first national grizzly bear conference of State and Federal officials and researchers, the forerunner of the present Grizzly Bear Task Force.

If there ever was a man dedicated to the commonsense approach to our Nation's wildlife and environment, it was Frank Dunkle. I knew him and respected his judgment in such matters. Sure he was a person of controversy but who wasn't in those days of change. He stood his ground when criticism came from all directions and never lost or was swayed from his own judgment. I thank him for his service to my home State of Montana and this United States.

Mr. SIMPSON. Mr. President, I look forward to working with the Senator from Maryland on issues because I do enjoy him as a friend.

THE AARP

Mr. SIMPSON. Mr. President, I rise with some acknowledged trepidation, Mr. President—and on this I shall not extend—in order to express some very deep concerns regarding the activities of the AARP—I can almost feel the Chamber crumbling on my head—the American Association of Retired Persons, the AARP, one of the most enormously influential organizations in our society.

I am most assuredly well aware of the political hazards that one risks when offering up even the mildest criticisms of this mammoth organization. However, I believe my concerns are honest and valid ones, and I would take this opportunity to share them with my Senate colleagues and my fellow Americans.

Perhaps a very good place to start would be with the AARP propaganda machine, as I call it. First note that I am a member of the AARP. I have sent in my $8. I could not resist the blandishments which came to me in the mail when I came to the age of 55. Now the age of admission is 50. All you have to be is 50 to be in the American Association of Retired Persons. So imagine the membership net that they throw out across America.

I recently reviewed the September 1993 issue of the AARP Bulletin—I read these faithfully—the monthly newsletter which the AARP sends to its 34 million members, all paying $8 apiece dues. Figure that up. Big time.

I was immediately intrigued by the front-page headline which said, "AARP Set to Fight Curbs on Benefits." The first sentence of the article reads as follows. "Despite taking a major hit in last month's budget deal, America's elderly are now being targeted for even deeper benefit cuts this fall." What then follows is a lengthy dissertation that makes it sound as if America's senior citizens will be bearing all of the burden of the budget package recently signed into law by the President—and furthermore, that the Congress is getting ready to inflict more pain on older Americans. This is truly a preposterous and phony claim. Not the first time that this organization has espoused such doggerel.

The article then goes dramatically on to quote John Rother, the AARP legislative director, and there is quite a staff there—that will be the subject

of subsequent remarks here on the floor—and their salaries.

He is saying, listen to this, "The situation is grave. * * * Our members should be very concerned and they should be very active." Read that "politically active." Then the gentle readers are directed to a column on the next page where they are urged to write and express their views to their Senators and Representatives.

I have always prided myself on communicating with my Wyoming constituents. I very much appreciate and enjoy reading letters and having phone calls from them. I represent a small State with a small population; indeed, the smallest. So to me it is a person-to-person exercise—so I think it is most unfortunate when these communications suddenly come to me which are prompted solely by inaccurate and deceptive information.

Even though I opposed the President's budget package, I do not believe for 1 minute it has singled out seniors for unfair treatment or a major hit. It troubles me greatly that there are 34 million Americans who are being fed false and misleading information on matters of such critical import for their own understanding.

It is no wonder why so many Americans have such a deep and abiding suspicion and distrust with Congress and their Federal Government. Based upon information that is provided by the AARP Bulletin, one could easily conjecture that Congress was solely made up of evil, uncaring, insensitive, and cruel people; and that seniors are being treated as second-class citizens in this country.

The reality however, as every thoughtful citizen knows, is that we are a very generous and compassionate Nation when it comes to taking care of our senior citizens. That is why we have a national debt of approaching $4.37 trillion—$4,370,000,000,000—and an annual deficit of $300 billion.

So just to set the record straight, let us review the so-called major hit—those are the AARP's words—that the budget package supposedly laid on these senior citizens.

First of all, the growth of Medicare spending was reduced by $55.8 billion over the next 5 years. Those are not cuts. That is the phoniest type of argument.

Do not let the AARP or the media sell you a bill of goods on that. The fiscal year 1992 increase in Medicare spending was 13 percent. The fiscal year 1993 increase is estimated to be 10.9 percent. They are not cuts. We are simply not going to allow the programs to go up as fast as they have in recent years.

When a 13-percent increase is described as a "cut" someone is not telling the truth. And with the exception of $7.8 billion, all of the $55.8 billion in savings are achieved at the expense of health care providers and hospitals. Services and benefits are not reduced in any way. No. None.

The only cost borne by Medicare beneficiaries—the $7.8 billion I just referred to comes from maintaining part B premiums at 25 percent of the cost of the program in fiscal years 1996 through 1998. And all this does is extend the current policies through 1998. There is nothing new about this.

We will hear from the AARP when we should very much consider raising the part B premium participation to 100 percent, because you see right now those who pay part B premiums are paying 25 percent of that premium regardless of their net worth or their income. So Joe Six-Pack is paying the premium, 75 percent of the premium, for someone who is extraordinarily well off. That is wrong. It is silly.

And wait until we try to change it. They will be dropping out of the trees like mayflies in May right onto the water where the trout can leap out. That is their constituency.

So that is something we want to recall with regard to part B premiums. We are going to have to say that those who earn over $100,000 in retirement are going to have to pay all of their part B premium, which will be about $136 a month. They will shriek like a gut shot panther, and these people will probably help them. Remember, right now they are paying about $36 a month for part B premiums. We are going to say, we are going to quadruple that. They are going to pay all of it, which will be about $140, and only if they have about $100,000 in retirement. We will hear from everyone on that. I know we will.

And we will just have to suck up and try to do it right, which will be very difficult because this organization—it will depend on whether they are aboard or not—this organization has the power to destroy the President's health care proposal, or Senator CHAFEE's health care proposal, or Senator BREAUX's health care proposal, or the Democratic proposal, or the Republican proposal.

Now with regard to Social Security, the budget package required that the individual seniors making more than $34,000 a year—this is in retirement—couples making more than $44,000 a year, will now have 85 percent of their Social Security benefits made subject to taxation. That does not mean they will be taxed at 85 percent. Some even write and tell me about that. I do not know where they get that information. It means that 85 percent of their Social Security is exposed to taxes. If they are in the 18 percent bracket, that is not a punitive tax, especially if they are making over $44,000 a year as a couple in retirement. This change in the law will generate $24 billion in revenues over 5 years.

If you were to combine this $24 billion with the $7.8 billion that results from adjusting part B premiums, you then have a total of $31.8 billion that Social Security and Medicare beneficiaries are contributing to deficit reduction. That is what they are coughing up. This may seem like a substantial amount, and it surely is. But it still accounts for only slightly more than 6 percent of the total deficit reduction package, and that, according to the AARP is a major hit on the seniors of America. Bosh.

I think it becomes very clear that the AARP believes that seniors should be largely excluded from participating in any efforts to reduce the Federal budget deficit. Be assured that they always say that they are "very willing to help" do this, and they are willing to help do "their share" and "bear their portion of the burden." Yet, the propaganda they feed out to their vast membership suggests otherwise.

If 6 percent is too much for seniors to contribute toward deficit reduction, then just what is acceptable to the AARP? I think we can find an answer to that question in carefully reviewing the AARP's public policy agenda. This is the AARP's official wish list. Do not miss it. It is 510 pages long. They probably send it to any Member. You can get a copy. This outlines everything the AARP would like the Federal Government to do for senior citizens. And just for starters, they would provide all seniors with expanded health care benefits under Medicare—long-term care coverage and prescription drug coverage—regardless of the person's net worth or income. Seniors of high income status would get these new benefits right along with those who truly cannot afford them.

The AARP would also demand that the Government expand upon housing programs for low-income seniors, energy assistance, food and nutrition assistance, transportation services, counseling, worker training, legal services, and the list goes on and on. Certainly, many of these services are obviously worthwhile, but they would break this Nation financially. The National Taxpayers Union has estimated the cost of these new services, and benefits would exceed $300 billion in this fiscal year alone. I really do believe and think many AARP members would be truly shocked—and even embarrassed—if they knew this broad agenda, this back-breaking agenda, was being proposed in their name and with their dues. By the end of the decade, the costs of these benefits would exceed $600 billion per year—in addition to the cost of everything else we already do for seniors.

As a member of the Senate Special Committee on Aging, I would like to make my colleagues aware of a report that the committee publishes annually. Here it is. It is entitled "Developments in Aging," and it consists of two volumes. Here they are. This report outlines all of the legislative activities

that have taken place in the previous year with respect to aging issues. It also includes comprehensive information on all of the programs, benefits, services, and grants that are available to senior citizens of this country through the Federal Government. It is a marvelous document—heavy, too. I commend it to everyone's attention, "Developments in Aging," a report of the Special Committee, chaired by a wonderful person, Senator DAVID PRYOR, a lovely friend, and the ranking member, BILL COHEN—two very able United States Senators.

So I ask you if you might take a look at that.

In addition, I ask unanimous consent that a separate list of services to seniors compiled by my staff be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FEDERAL PROGRAMS TARGETED TO SENIORS

DEPARTMENT OF HEALTH AND HUMAN SERVICES

1. Emergency Community Services for the Homeless (93.034), Office of Community Services, Administration for Children and Families, Department of Health and Human Services.

2. Special Programs for the Aging—Title III, Part B—Grants for Supportive Services and Senior Citizens (93.633), Administration on Aging, Office of the Secretary, Department of Health and Human Services.

3. Social Security—Research and Demonstration (SSA Research and Demonstration) (93.812), Social Security Administration, Department of Health and Human Services.

4. Social Security—Retirement Insurance (93.803), Social Security Administration, Department of Health and Human Services.

5. Social Security—Special Benefits for Persons Aged 72 and Over (93.804), Social Security Administration, Department of Health and Human Services.

6. Social Security—Survivors Insurance (93.805), Social Security Administration, Department of Health and Human Services.

7. Special Programs for the Aging—Title VI, Part A—Indian Programs—Grants to Indian Tribes and Part B, Grants to Native Hawaiians (93.655), Administration for Children and Families, Department of Health and Human Services.

8. Supplemental Security Income (93.807), Social Security Administration, Department of Health and Human Services.

9. Special Programs for the Aging—Title IV—Training, Research and Discretionary Projects and Programs (93.668), Administration on Aging, Office of the Secretary, Department of Health and Human Services.

10. Aging Research (93.866), National Institutes of Health, Public Health Service, Department of Health and Human Services.

11. Health Care Financing Research, Demonstrations and Evaluations (HCFA Research) (93.779), Health Care Financing Administration, Department of Health and Human Services.

12. Medicare—Hospital Insurance (Medicare) (93.773), Health Care Financing Administration, Department of Health and Human Services.

13. Medicare—Supplementary Medical Insurance (Medicare) (93.774), Health Care Financing Administration, Department of Health and Human Services.

14. Special Programs for the Aging—Title III, Part A—Long-Term Care Ombudsman Services for Older Individuals (State Grants for Aging Ombudsman Activities) (93.533), Administration on Aging, Office of the Secretary, Department of Health and Human Services.

15. Special Programs for the Aging—Title III, Part D—In-Home Services for Frail Older Individuals (In-Home Services for Frail Older Individuals) (93.641), Administration on Aging, Office of the Secretary, Department of Health and Human Services.

16. Special Programs for the Aging—Title III, Part F—Preventive Health Services (93.555), Administration on Aging, Office of the Secretary, Department of Health and Human Services.)

17. Special Programs for the Aging—Title III, Part G—Prevention of Abuse, Neglect, and Exploitation of Older Individuals (State Grants for Elder Abuse) (93.552), Administration on Aging, Office of the Secretary, Department of Health and Human Services.

18. Low-Income Home Energy Assistance (93.028), Administration for Children and Families, Department of Health and Human Services.

19. Special Programs for the Aging—Title III, Part C—Nutrition Services (93.635), Administration on Aging, Office of the Secretary, Department of Health and Human Services.

DEPARTMENT OF EDUCATION

1. Rehabilitation Services—Independent Living Services for Older Blind Individuals (84.77), Office of Special Education and Rehabilitation Services, Department of Education.

DEPARTMENT OF LABOR

1. Senior Community Services Employment Program (SCSEP) (Older Worker Program) (17.235), Employment and Training Administration, Department of Labor.

ENVIRONMENTAL PROTECTION AGENCY

1. Senior Environmental Employment Program, Office of Research and Development, Environmental Protection Agency.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

1. Home Equity Conversion Mortgages (14.183), Housing, Department of Housing and Urban Development.

2. Housing for the Elderly or Handicapped (202) (14.157), Housing, Department of Housing and Urban Development.

3. Congregate Housing Services Program (CHSP) (14.170), Housing, Department of Housing and Urban Development.

4. Mortgage Insurance—Nursing Homes, Intermediate Care Facilities and Board and Care Homes (232 Nursing Homes) (14.129), Housing, Department of Housing and Urban Development.

5. Mortgage Insurance—Rental and Cooperative Housing for Moderate Income Families and Elderly, Market Interest Rate (221)(D)) (3) and (4) Multifamily—Market Rate Housing) (14.135), Housing, Department of Housing and Urban Development.

6. Mortgage Insurance—Rental Housing for the Elderly (231) (14.138), Housing, Department of Housing and Urban Development.

DEPARTMENT OF AGRICULTURE

1. Nutrition Program for the Elderly (Commodities) (NPE) (10.570), Food and Nutrition Service, Department of Agriculture.

DEPARTMENT OF TRANSPORTATION

1. Capital Assistance Program for Elderly Persons and Persons with Disabilities (Elderly and Disabled, Section 16 (B)) (20.513), Federal Transit Administration, Department of Transportation.

VOLUNTEER PROGRAMS

1. Foster Grandparent Program (FGP) (72.001), Action.

2. Retired Senior Volunteer Program (RSVP) (72.002), Action.

3. Senior Companion Program (SCP) (72.008), Action.

4. Service Corps of Retired Executives Association (SCORE) (59.026), Small Business Administration.

5. Tax Counseling for the Elderly (21.006), Internal Revenue Service, Department of the Treasury.

(Mr. WOFFORD assumed the chair.)

Mr. SIMPSON. I think it is also vitally important to acknowledge that the AARP is not just some outfit that is set to look out for the poor and the destitute and disadvantaged, because despite its claim to be a nonprofit organization—and it has been referred to as a money machine in one article—the AARP is an extraordinary, wealthy, and profitable enterprise.

In 1992, the AARP had revenues totaling $386 million—$386 million. Included in this figure is the $102 million that came from membership dues—and that was before they raised their annual dues from $5 to $8. The AARP—I really want to look into this one—also receives $80 million in Federal grants and millions more in postal subsidies, all compliments of the U.S. taxpayers.

In addition, they reported interest income exceeding $37 million in 1992. Interest income. Imagine then, if the yield that is generated here is 6 or 8 percent—and it probably is—then the principal would be $500 million or $600 million. In what? Well, whatever it is, it is called principal in the real world, and you get interest off principal. And if you are getting a yield of $37 million—which I think has been adjusted up to $40 million, and I will have those figures—then imagine what the principal is. I will be exploring those issues in greater detail in weeks ahead—at my political detriment.

Finally, the balance of the AARP's revenues are derived largely from what is described in publications as an $8 billion to $10 billion cash flow—an empire that includes big, big businesses involving health, life, and auto insurance, travel services, mutual funds, a mail order pharmacy, and publications that bring in tens of millions of dollars in advertising revenues—almost $40 million in advertising revenue to this nonprofit organization in the year 1992 alone.

And then the AARP also receives 4 percent of every premium dollar paid to the Prudential Life Insurance Co. on their advertised insurance through AARP. In their magazine, they are even placing their ads for the things they do next to the paid advertisers, and there is an entirely separate examination of that going on by me.

None of this is inherently wrong. After all, this is America. But I think

it is a most curious thing that such a prosperous money making machine has a nonprofit designation. More importantly, I think it is terribly wrong that this organization is communicating false and deceptive information to a large segment of the population. And no one is ever challenging them on their facts. This must stop. Nobody wants to take them on. I can assure you I will pay dearly for this, but I have done a little dragon slaying in my life, and I must say that the hot breath of the dragon has often seared the rest of the hair off this bald dome. I am not going to sit still and watch this continued distortion take place. We in Congress have an obligation to confront the AARP when they stray from the truth. It is not always easy to do that, and it is certainly not politically correct, especially when you are talking about an organization that openly and brazenly boasts about its clout and the millions of votes they represent.

I am encouraged, as is always the case, by a few sturdy souls in my State of Wyoming who have written to me saying "Don't be intimidated by the AARP." I believe that most thoughtful seniors, American citizens, when presented with honest and truthful information and facts, would reject the full blast of propaganda from the AARP. I am also hopeful that the young people in this Nation, and, boy, they better be listening—they will be out picking grit with the chickens in the year 2030, if you leave the AARP to set the national agenda—I am hopeful that the young people in this country are becoming more and more aware and much more politically astute, because they are the ones who will be picking up the tab for the excesses of the AARP agenda.

Let me conclude in emphasizing that my concerns about the AARP—and this will not appear anywhere, but I am saying it because I hope it will—and the manner in which they conduct their business, has nothing at all to do with bashing of senior citizens. I had a 95-year-old father who just died in June. I have a 93-year-old mother. My wife's mother is 93. We are blessed and we take care of them ourselves. One of them is quite able to do that. And yet there are millions or at least hundreds of thousands of people in this country who when their parents or their relatives become aged they suddenly say, "I think we better put the farm in Tommy's name because it just seems like it is important to do that now," and then put that person on title 19. That happens all the time in America.

There is lots of stuff out there, but I am not a basher of senior citizens nor am I trying to diminish the good that is accomplished by AARP. I think it is most admirable that over 400,000 AARP volunteers are involved in community service programs nationwide. I also know that many seniors sincerely benefit from the AARP's driving retraining program. People are frightened at that age, puzzled by driver training, and they help them, as well as consumer affairs information and legal services that the AARP provides in many areas.

These are very worthwhile services, and I will not belittle them in any way, and that is not what I am doing. But I can now hear the hew and cry and see the cartoons, emaciated, gaunt, bald, and slouched "Ichabod Crane" type cartoons like me make remarkable targets for the cartoonist pen.

No, that is not what I am up to. The AARP has every valid right as an organization of American citizens to promote the interests of our Nation's elderly, but they need to be much more careful about their facts and tactics.

I would wish that the AARP would play a more constructive role in the future. With their enormous audience and membership, they have the potential to be ever so helpful to us, especially in this area of health care reform. If they decide to turn, they can be the most destructive force to the President, to the Democrats, to the Republicans, to the House, and to the Senate.

So I hope they will communicate honestly and factually with their membership. I, for one, will continue to observe them very closely, and I am doing some serious research, and I will have much more to say on some of their other activities in the coming weeks.

I thank the Chair and I thank the staff because I have been a bit long, but I do not usually transgress upon the Chamber in that fashion.

RECESS UNTIL TOMORROW AT 10:30 A.M.

The PRESIDING OFFICER. Under the previous order the Senate stands in recess until 10:30 a.m., Friday, October 29.

Thereupon, the Senate, at 7:14 p.m., recessed until tomorrow, Friday, October 29, 1993, at 10:30 a.m.